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National Environmental Justice Advisory Council

June 20, 2006

Members Present:

Richard Moore, Chairperson

Sue Briggum
Charles T. Collette
Eileen Gauna
Jodena N. Henneke
Richard Lazarus
Harold Mitchell
Juan H. Parras
Shankar Prasad
Andrew Sawyers
Wilma Subra
Connie Tucker
Kenneth Warren
Benjamin Wilson

EPA Members Present:

Charles Lee, Designated Federal Officer
Barry E. Hill

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National Environmental Justice Advisory Council

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Keynote: "---" indicates inaudible in the transcript.
Keynote: "(*)" indicates phonetic spelling in the transcript.

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A F T E R N O O N S E S S I O N

(1:01 p.m.)

Call to Order

by Charles Lee, DFO

MR. LEE: Hi, good afternoon. My name is Charles Lee, and I am the Associate Director for the Office of Environmental Justice at EPA, and I am the Designated Federal Officer for the National Environmental Justice Advisory Council. And it is my distinct pleasure to welcome you to the 18th Public Meeting of the NEJAC.

I want to welcome you to Washington, D.C. I know many of you had a hard time getting here last night, so we really, really appreciate your taking the time out of your busy schedules to spend the next three days with us to address some very important issues.

I want to call this meeting to order, as the Designated Federal Officer, and I am going to turn it over to Richard Moore, who is the Chair of the NEJAC. Richard.

Welcome

by Richard Moore, Chairperson

MR. MOORE: Thank you, Charles. I wanted to begin this morning by welcoming everyone here to the NEJAC Advisory Council meeting. As Charles had mentioned, some of the people, Charles, didn’t only get in late last night, but got

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in early this morning because of the weather throughout the country, to a large extent. But there will be some that will be coming in this afternoon, Advisory Council Members, that will be joining us a little bit later.

I also wanted to welcome those that have registered for this council meeting, and highly encourage those that haven't that would like to make public comment to please not forget to register there in the front for the public comment period this evening.

So, with that said, it has been an incredible venture throughout all these years. Some of you, or many of you, may remember when the NEJAC Council was first put in place several, several years ago. And many in this room were a part of that historical moment. And it has always been quite an honor, myself, working with not only the staff of the EPA, with OEJ, and others throughout the EPA, and other government agencies that we have been working with through the Inter-Agency Working Group, and grass-roots groups, and others that have been a part of all this process.

It is quite a moment to be here in D.C., and I think, again, Charles, kind of flagged that. I mean, we have got flooding in Houston, and we have got forest fires in the southwest, I think in Colorado, New Mexico, and Arizona, the last that I heard a couple days ago while I was here in

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Washington. I got called by my family and several others, Environmental Justice organizers and activists in the city, that there was a forest fire that started on the Isleta Pueblo, which is on the southern tip of Albuquerque.

And for you all that know, it is quite an environmental justice issue, and stays in tact that way for many of us that live on the river in the southwest, or live very close to the river. When that fire begun on the Pueblo of Isleta, on one of our indigenous tribal territories, its windy season also in the southwest, and with that, it is windy season in New Mexico. So, the winds pick up quite often, and blow up to 50 or 60 mile-an-hour winds.

It has been a drought for us in New Mexico and throughout the southwest. I think we have been in a five-year drought at this present time. And it doesn't take much for a fire to begin, lightening, dry; lightening with actually no rain but just thunder and lightening. Someone mistakenly throwing something out the window, being in barbeque areas, or burning weeks in the backyard and the winds pick up, and so on.

And part of our community last week was evacuated in South Valley of Albuquerque because of the forest fires.

But I think that, you know, as we are continuing to see what is taking place in this country, and with flooding

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and fires, and environmental justice issues, that many of our communities are being impacted by. What I will say is that it has been quite challenging to one extent, but to the other extent, we have had fairly major victories in many communities; not only in the southwest, but throughout the country. And I will flag just one of those before we begin to call again this meeting to order.

That the end of last year, Governor Bill Richardson, in New Mexico, because of the work of many of the environmental justice, or grass-roots organizations had signed the Governor's Executive Order on Environmental Justice. And some would say, even when President Clinton signed the first Presidential Executive Order, what does an Executive Order really mean.

And what I will remind our sisters and brothers, if I can, on this Council, all of you that for us that have been struggling for many, many years in our communities, that everything at some point adds up to something in some cases that we may have not had before.

And I say that because not only in New Mexico is the signing of the Governor's Executive Order, a historical moment, but in that Executive Order it calls for an Inter-Agency Task Force, similar to the Presidential Executive Order.

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I think, additionally, within the Executive Order, it states, which I think may be one of the first in the country, Governor's Executive Orders that says that within the Inter-Agency Task Force, that their can be, should be, representation from not only environmental justice organizers, organizations, and activists, but from others in our communities.

So we had a couple weeks ago the second meeting in Santa Fe, New Mexico of the Inter-Agency Task Force. Where, officially, six others were seated on the task force by the Secretary of the Environment, Ron Curry, for the State of New Mexico.

That means a lot to us; particularly, those that, as I said, have been living in pretty unhealthy situations and circumstances throughout many, many years. In some cases, our county governments, our parishes, our city governments, our state governments. Unfortunately, in some cases, have chosen not to do anything about those problems that have existed in our communities and in many of our workplaces.

And I say that just to remind myself as we begin this couple of days, that even in my own community, our community was drinking contaminated water for over 25 years. Our community primarily was contaminated by a series of sources in the southern South Valley of Albuquerque. I was on

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a conference call with this NEJAC Council two or three weeks ago, and I had to apologize to the council members because the planes were flying over the house.

So we have been very highly, like other communities, impacted by the airport and the rerouting of planes because they are building another community, made up of 30,000 on the western tip of my neighborhood. And they are rerouting the planes to kind of prepare us, supposedly, for the kind of noise and conditions that our communities are going to be impacted by because of the rerouting of those planes.

Also, while we were on that call, the council members may remember that the trains that were coming by, because like my community, like many others, the railroad tracks, in many cases, divide and come through our communities and cause particular kinds of ground water contamination and other issues.

So, I think as we move forward in this meeting of the NEJAC Council that is very, very important to always keep in mind. And I have got to give credit to the council members here, on the integrity of all us working together, struggling together, agreeing, disagreeing, but doing in a very, what I consider a principled and professional manner.

So, when we first convened this council last year, we made some commitments to each other, and I, quite frankly,

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have to say to all of you on this council, you are to be congratulated. We will continue to do that over these next couple of days. And to those that have not had the opportunity to see some of the hard work of all of these council members -- many of us come from grass-roots communities, we come from business communities, we come from state governments, we come from academic backgrounds, and so on.

And as I said, quite frankly, it has been an honor for me to be asked to chair this council. I have felt very positive and very good about that. And our working relationships here, I think, have improved incredibly. And it will be those kind of moments that even as this council, as we finish on Thursday, that the kind of, at least openness that many of us have developed here, I think that will be continued beyond the term of this particular NEJAC Council.

So, with that said, I would like to thank those of you that have joined us today. Today is going to be a long day, and Charles is going to review the agenda with us. To thank the staff of the Office of Environmental Justice, to staff, to thank the EPA, and what I consider a handling. Again, in some of the discussions and dialogue that you will see, you will participate, as some of the leadership of the EPA comes and joins us today. And thank you all for joining

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us.

So, again, I would like to begin this particular NEJAC Council meeting, and I think we are ready to role, Charles, and we will review the agenda.

Introductions

MR. LEE: Why don't we have everybody introduce themselves. I guess we can start with you, Barry.

MR. HILL: Barry Hill, the Office of Environmental Justice.

MS. BRIGGUM: Sue Briggum, Waste Management.

MR. COLLETTE: Chip Collette, Boarder Department of Environmental Protection, Tallahassee, Florida.

MS. GAUNA: Eileen Gauna, Southwestern Law School in Los Angeles, and University of New Mexico in Albuquerque.

MS. HENNEKE: Jody Henneke, Texas Commission on Environmental Quality in Austin.

MR. WILSON: I am Ben Wilson, I am with the law firm of Beveridge & Diamond here in Washington.

MR. WARREN: Kenny Warren with the law firm of Wolf, Block, Schorr and Solis-Cohen in Philadelphia.

MS. TUCKER: Connie Tucker of the Southeast Community Research Center, formerly with the Southern Organizing Community for Economic and Social Justice.

MS. SUBRA: Wilma Subra, Southern Mutual Health

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Association.

MR. SAWYERS: Andrew Sawyers, Maryland Water Quality Finance and Administration.

MR. PRASAD: Good afternoon. Shankar Prasad from the California Environmental Production Agency. In fact, it has been a privilege and an honor to be a member on this group, and I also want to thank the OEJ staff for their excellent support and their healthy debate and discussions we have had over the last year, a little over a year.

MR. MITCHELL: Harold Mitchell, ReGenesis, Spartanburg.

MR. MOORE: Richard Moore, I am the Director of the Southwest Network for Environmental and Economic Justice in Albuquerque, New Mexico.

MR. LEE: Once again, welcome. Before we go through the agenda, I want to go over a couple items of business. The first one is I have been told to ask you to turn off your cell phones, or at least put it on vibrate. It does have feedback in terms of the audio system here.

The second one has to do with the fact that it is very likely that we will have press at this meeting. So I wanted to make sure that the Council has a set of ground rules that you can agree to as far as how to deal with the press.

And what I am speaking to is when questions are

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posed to you, and speaking as a council, it is my thought that those kind of questions should be directed to the Chair of the Council. So that there is going to be one voice, and that your message is pretty clear.

In addition to that, it was out thought that -- Richard and I had discussed this -- that when there are issues that -- when there are questions from the press around the Gulf Coast Hurricanes Draft Report, that they be directed to Wilma Subra, who is Chair of that workgroup.

So, clearly, any of you -- this is not meaning any of you shouldn't speak, or couldn't speak, to members of the press. But, when questions are posed with regard to the position or the viewpoint of the Council of the National Environmental Justice Advisory Council, that they be directed to Richard or Wilma. So, I just wanted to make sure if there are any thoughts about that, or agreement, or disagreement with that, you know, we are clear about that.

(No response)

MS. SUBRA: Sounds good.

MR. LEE: Sounds good. Okay, Richard are you okay with that?

MR. MOORE: I am fine. Sure, thank you.

MR. LEE: Great. Okay.

MR. COLLETTE: The name is Richard Moore, right?

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MR. MOORE: That depends, unless you are a bill collector, it is not Richard Moore.

(Laughter)

Overview of Meeting Agenda

by Charles Lee, DFO

MR. LEE: Okay, so let's go through the agenda. What we are going to be dealing with is actually four business items; one of which has to do with this evening, which is public comment, which is a standard piece of the NEJAC agenda. That will be between 7:00 to 9:00 p.m. tonight. But in terms of the business items for the agenda today, tomorrow, and Thursday.

This afternoon, we will be dealing with a piece of old business. It is the Unintended Impacts of Redevelopment and Revitalization Draft Report that was submitted by the Waste and Facilities Siting Subcommittee, and prepared by a workgroup of that committee.

Andrew Sawyers, who is the former Chair, or the Chair of that committee is going to make that presentation. And joining him are going to be David Lloyd, who is the Director of the Office of Brownfields Clean-Up and Redevelopment, and Kent Benjamin, the EJ Coordinator for the Office of Solid Waste.

Then, tomorrow morning, we are going to review the

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draft recommendations of the Executive Council Mechanisms to Enhance Future Stakeholder Involvement and Engagement Around Environmental Justice. Those are the Executive Council's Draft Recommendations, in response to those three charge questions around future venues for public policy advice; mechanisms for offering advice on a short-term, urgent basis; and, thirdly, mechanisms to enhance partnerships and collaborative problem-solving to address environmental justice issues.

Tomorrow afternoon about 3:00 or so, we will begin the discussion of the Gulf Coast Hurricanes Draft Report. That will begin with presentations and discussions with Larry Starfield, who is the Deputy Regional Administrator for Region 6; Stan Mieburg, the Deputy Regional Administrator for Region 4; and Dana Tulis, who is the Deputy Director for the Office of Emergency Management.

Of course, Region 6 and Region 4 were the two EPA regions that were heavily involved, directly involved, with the impacts of hurricanes Katrina and Rita.

That will go through that afternoon, and the next day, which is Thursday. It is our expectation that some time in mid-afternoon, that should be completed. And then we will conclude with a closing session on Thursday afternoon.

So, that pretty much is the agenda. I want to know

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if there is any questions or changes that you may want to suggest to the agenda at this point.

(No response)

MR. LEE: Everybody is okay, right? Okay. Okay, Granta is expected. The next item on the agenda is, actually, a presentation and conversation with Granta Nakayama, who is the Assistant Administrator for the Office of Enforcement and Compliance Assurance.

He is not here yet, and what I would suggest, Richard, is that why don't we at this point just move right on along until he gets here. And we could do that with a presentation by Andrew around the Unintended Impacts Report.

Unintended Impacts of Redevelopment and

Revitalization Efforts in Five Environmental Justice Communities

by Andrew Sawyers

MR. SAWYERS: I am wondering, Kent, if you probably should join me, along with David. MR. LEE: What we will do is we will just have this presentation. And I would expect at some time during Andrew's presentation, Granta will get here. And then we will just come back to this discussion.

MR. SAWYERS: Thanks, Charles. I wanted to talk briefly about the Unintended Impacts Report. I am hoping that just about everyone had an opportunity to read the report, so my remarks will generally just cover some thoughts that I

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think would be very important to mention. And I think David and Kent will add much more depth to some of the things that I will talk about.

I was not one of the authors of this report, I was very involved in the process, but not one of the authors. I did not visit any of the sites, but this report, I think, has a lot of value; certainly, for NEJAC, but probably more importantly, for the communities that were visited during the process.

The purpose of the report, essentially, was to look at some of the unintended impacts from successful Brownfields Project, the Showcase projects, the Base Realignment, or BRAC projects, and started to figure out if there were any important lessons that could be gleaned from that process; or, any realistic recommendations that the group could make to EPA that EPA could act upon to improve conditions within those communities. And, certainly, in future communities where realignment, or redevelopment, has taken place. Hopefully, some lessons could be gained from this process to influence future decisions.

Are any of the group members here? John Ridgway -- only one of the group members is currently here. But the group, essentially, defined unintended impacts as unwanted or unwelcomed displacement, equitable compensation for

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displacement. Essentially, if someone is moving, that their home be appraised or be purchased for a price that they thought was equitable.

Negative impact, health impact, environmental or other ambient impacts. So, if those pose any negative effects, if you will, on the community at-large, then that would be considered as an unintended impact.

Negative impacts, unaffordability, lack of opportunity for local businesses, and/or residents, and unanticipated consequences or results, if you will. Anything that was no expected that had a negative impact on the community was viewed as an unintended impact.

So the process was fairly extensive. They looked at about 125 different communities. Ultimately, they chose five communities. They reviewed a lot of literature, census data, and conducted key interviews with stakeholders. And those key stakeholders were the community leaders, community organizations, and even some of the government agencies, and, certainly, the Federal Government, who were involved in some of these developments were also interviewed.

There were several challenges, we won't get into it. But, I think in part, the five members of the workgroup actually did the bulk of the work. So that was an issue in terms of resources available to do the report. And they had a

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very tough time sort of identifying common themes across, just because of the diversity of the communities that were involved in this process.

Nevertheless, their efforts, I think, must be commended. They went along and the information that was gleaned from this, I think, obviously, has some positive benefits. So, I just want to talk briefly about some of the key findings.

They thought in the report that it is very important for long-term resources, and not just financial resources, but people resources. One of the expressions that I saw within the report was that EPA and other federal staff should probably be assigned to some of these projects, probably through the IPA process.

And it would be particularly helpful to the communities if they had some technical expertise to sort of help them throughout the process; whether it is just understanding some of the technical aspects of the project, whether it is you are removing soil. Whatever some of the impacts were, they thought it was very important for technical expertise to be provided to the communities during this process.

One of the issues which was also considered was, generally, there are requirements, sort of federal

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requirements, if you will, in terms of federal environmental results. And this is one that they didn't think this process could sort of replicate, if you will. The process of collecting -- it is not just federal requirements, but in terms of doing a very -- for lack of a better word -- tangible research, if you will.

The process that they use to collect the data in some cases was compromised just because of resources and available resources, if you will.

So if you were looking at the traditional mechanism that one used to collect data, this may not have been the process. However, they did the best that they could do in getting the requisite data that is now contained within the report. And I think the data that is contained within the report actually expresses generally what they want it to express.

They thought the issue of collaborative, sort of coordinated approach was very crucial. Wherever there were successes, there was a definite -- the approach used was, generally, well coordinated. And they think in the future this is something that we must continue to express, coordination, collaboration is critical among all the different stakeholders involved.

For the project really to gain any traction, or even

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to have any benefits for the stakeholders, the communities involved, highlighting the benefits to all the different stakeholders they thought were critical. The community members certainly should be apprised of whatever benefits that could potentially accrue to them. But, certainly, the government agencies, they should also attempt to identify what benefits that they have sort of impacted positively in the community.

And also, what are the negative implications of the project, if you will. What were some of the things that happened that probably should not have happened. Whether it is lack of coordination, or whatever the reasons that lead to that process. But, I think, highlighting the benefits and the disadvantages were crucial in sort of future projects. They think this is sort of an important element.

I think one of the primary recommendations, and I will get to that in a bit, but it is also a finding for them, a society of community impact assessment. They think it is crucial to better understand what is going on within the communities. Whenever you do decide to do an analysis, for this process, if it is a redevelopment project, or a revitalization project, it is very important to sort of take a very good look at the community.

Whatever resources are available, use those

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resources to better understand the dynamics, the diversity, the demographics. Whatever you can find out about the community before you go in and do sort of a full scale research on technical information.

And, I think for them -- especially, for the group -- this is something that was emphasized consistently throughout the phone calls, or whatever discussions we had, that is very important to have a good understanding of the community that you are going to research, or the community that you intend to redevelop, or revitalize. And that research, that understanding, will definitely inform whatever decisions you do decide to make ultimately.

I want to just end by talking about some of the key recommendations that were made. There are several, but I will just highlight six or seven of those recommendations. And, again, they will certainly reflect the findings that I just talked about.

The first one has to do with the whole issue of placing technical expertise, particularly, EP or other federal agency staff, within these communities, whatever you do decide to do, whenever you do decide to revitalize, or displace some of these communities, or some of the projects within these communities.

The second one has to do with the whole issue which

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is, certainly, not new to any of us, but this idea of meaningful involvement. And they thought it was very important that all the different stakeholders had an opportunity to be very involved in the process. And not just this process, but one of the things that -- sort of a peripheral issue that emerged during the interviews -- was this idea of lack of involvement in land-use planning.

And, ultimately, how some of those unfortunate, or lack of involvement, if you will, ultimately had negative implications. Not just the actual displacement itself, but the lack of involvement in land-use planning 10, 15 years ago could certainly have helped some of the concerns that were raised during the process.

During the clean-up projects, they think EPA should make a concerted effort to implement a coordinated approach to public outreach, where development or revitalization projects are complex. I think that sort of speaks for itself.

One of the other recommendations focused on the idea that EPA should work aggressively to address the cumulative impacts of environmental problems present in environmental justice community. I think this is an issue that NEJAC has been working steadfastly and trying to promote.

Another recommendation focused on the idea of this whole issue of demographic assessment, and not just at the

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outset of the project, but it should be done at the end of the project too. And during that process, some sort of evaluation should take place to see how has the community changed with this project. And I think only by that measure, can you sort of realistically say the project sort of definitively impacted the community in a positive or a negative way.

And there was another recommendation that focused on federal agencies, sort of reaching out to state and tribal entities and make sure that they participated fully in all the different processes here.

And, finally, sort of a comment which I sort of heard throughout, but the whole idea that if NEJAC sort of works closely with us and the different community entities, this report -- if we sort of read it very carefully, has a lot to offer. And maybe collaboratively, we can sort of implement some of the recommendations.

And, ultimately, they think that if both NEJAC, OSWER, and the community organizations within which the place studies were done, if they work jointly together, then there is a strong possibility that quite a few of these concerns could be mitigated. But, certainly, the lessons learned from this report could offer any informed future decisions in other communities.

So, I am going to turn it over to Kent, who was very

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involved in the process, and also David, who has had an opportunity to talk to Kent about how OSWER could better get involved in this process. Kent.

Remarks

by Kent Benjamin

MR. BENJAMIN: Since David leaned back, I guess that means I go first. I am glad I see a couple of the members who worked on it here. Butch Warlaw is also in the room. I want to acknowledge him.

First I want to say, good afternoon. I am glad that this report has come to this point. It has been over four years since the idea was proposed in the subcommittee, and since the workgroup was formulated. And I wasn't even the first person to work with the subcommittee on it, so it has been a long road, with a lot of people involved.

But they tried to sort of maintain the integrity of the process throughout. A couple of points I want to share. One, Andrew mentioned the number of places that were looked at initially. We used a lot of data from Brownfields and Superfund, and compared that to census and other demographic features to try and find, like we did in the waste transfer stations on NEJAC Report, which Sue Briggum will remember.

We tried to find places where there would be sort of the richest data to mine. And one of the things that was

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discovered was that it wasn't easy to find comparable data in all times. And that is kind of where one of the key recommendations came from, of gathering the demographic information ahead of time for comparison.

Because with the sites, whether it is a Superfund site, a BRAC site, a Brownfields, et cetera, the census data goes on 10-year intervals with periodic updates. But some of the information that they wanted to look at was not easily available.

For example, if you do a Brownfields site in 1998, and you go back and look at that place in 2004, you are kind of in between census intervals. So that is where that notion of looking at getting some demographic data on that local level so you could see what really happened. Because it was very difficult to compare sort of things like rental versus ownership. The education levels, how those things change.

And those are some of the kind of measures that you would look at to get a sense of gentrification. So I want to raise the point of some of the challenges that they were trying to address in their recommendations.

The other thing I want to mention is that a key cornerstone of the report was that the subcommittee and the workgroup truly recognized the value of the revitalization aspects of Superfund, and the redevelopment value of

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Brownfields.

And we constantly referred to the methodology used in the Waste Transfer Station Report in terms of looking at the kind of place, going to the place, talking to the range of stakeholders as well as we could within the bounds of the Paperwork Reduction Act -- I want to highlight that.

So they went to and talked to people in those settings, and got the personal, on-the-ground data to enhance the data that was available in print and on-line, et cetera.

And a key intention of all this as well was that they recognized that the Brownfields Program, in particular, was a very -- not just popular, but successful model. And that the Brownfields Program sort of evolved simultaneous to the values that NEJAC has espoused over the years with public participation models, and other elements, such as going back to 1995 with NEJAC public dialogues on Brownfields and EJ of community participation.

So they wanted to build from there, as they thought about it, and they saw opportunities to make suggestions that enhanced all those values that the Brownfields Program had, and that the NEJAC had. So that was sort of where a lot of the recommendations evolved from.

I don’t know what other specifics I can say, because Andrew did an excellent job of sort of covering the whole

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waterfront. What else I guess I would add is that in last year -- they finished their work in December of 2004, and most of the members' terms expired. And that was a period where the Executive Council didn't meet for a period of time.

And I will keep referring to this, in the Waste Transfer Station model, we kind of worked on several tracks at the same time in the OSWER office. We did our own thing because our staff and senior management were sitting in on the process of meeting with the folks in the D.C. area, meeting with the folks in New York. And we came up with a Citizens' Guide. And Sue can, actually, probably speak on more of how those evolved.

But as we saw the NEJAC was sort of pausing, we went ahead about a year ago and met with the workgroup members with the Superfund Office Director, the Brownfields office, the Office of Solid Waste, the Federal Facilities Office. They all met with the workgroup members to hear in person sort of where the draft recommendations were, and gave a little feedback on their programs.

Some of the issues of purview came up as well. And, basically, the OSWER folks were going to do what they could to look at the recommendations in the draft form. As they went forward with their programs, they would see opportunities to factor in some of those recommendations, but in large, we

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would wait until the report was finalized and the official NEJAC document before we would issue any kind of written statement of, here is what you said, and here is what we plan to do.

So what we will most likely to do in OSWER, once this is finalized and transmitted back to the agency is take about 60 to 90 days and put together a workgroup with the senior managers again, and sort of describe how we will react and what actions we will take in response to the final document.

So I will pause there, and pass the mic to David.

MR. LEE: If I may, David, why don't we come back to this after Granta speaks with us. And I want at this point to introduce Granta Y. Nakayama, who is the Assistant Administrator for the Office of Enforcement and Compliance Assurance. As Barry and I will tell you, he is also our boss, and you have talked with him, members of the Council did have an opportunity to speak with Granta back in January when you first met.

And by way of introduction, I just want to say that you have already talked with him, and you know of his sensitivity and commitment to the issues of environmental justice. He has not only provided leadership to the environmental justice program, but I am sure Barry would also

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agree with me to say that he has also provided us with a lot of inspiration.

So, with that, I just want to welcome Granta, and I think you are going to say a few words and open it up.

Remarks

by Granta Y. Nakayama

MR. NAKAYAMA: Well, thanks for the welcome, Charles. Very happy to be here this afternoon. I always look forward to these NEJAC meetings. It is a time to sort of reflect for me, it is sort of a time when we come together and a few months have passed, and we ask, what progress have we made? Are we making progress? Are we headed in the right direction?

So, I want to recognize all of you, including Richard Moore, the Chairman, and all of you. Because I know you are volunteers. You are here, there is a lot of other things you could be working on, and we appreciate your efforts, your input, your thoughts, and your guidance, frankly, to help us in the Agency as we move forward on these environmental justice issues.

It is clear that we benefit. We benefit. The Agency benefits from having the NEJAC. We benefit from your input, it is easy -- very easy in Washington to become very isolated, sitting in our offices, and think the world revolves

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around us. It doesn't. And we need to hear from you about the concerns of the community groups, and others, the business community, the community groups, everybody, about environmental justice issues.

And we have done some positive things since -- I guess I have been here, what 10 months, and in those 10 months, quite a few things have happened. We had Hurricane Katrina -- and we have had some positive things happen, such as the Administrator reaffirming that commitment to environmental justice, which was very important.

And in that commitment, in that memo to the Agency, Administrator Johnson reaffirmed not only the commitment to environmental justice, but said that we needed to integrate environmental justice into the way we do business as an agency. In other words, it needs to become part of our regular mode of doing business.

So that included putting environmental justice in all five goals of the EPA's Strategic Plan. And I always -- you know, coming from the outside, that sounds like administrative gobbledy-gook, or something. Some bureaucratic thing, the EPA Strategic Plan, but that is very important. That is an important document because that Strategic Plan is our overall guiding, sort of plan for how we are going to achieve the Agency's goals.

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By including environmental justice in each of the five strategic goals, we have really cemented environmental justice into the very fabric of the agency in our everyday work. And we have action plans from the headquarters and the Regional Action Plans now, I think they are posted on the website, right Barry?

So they are there for everybody to see. It is important, it is important that we move forward, it is personally important to me. I know Barry and Charles understand that, that we make progress on environmental justice. It is going to be an issue that will not be going away. It will be there front and center for us, and I think we need to deal with it. And I think the hurricanes clearly -- you know, it was quite clear that the environmental justice issues were front and center there.

And so that, I guess, moves us to the meeting today, and tomorrow, and the day after, what are our goals? And we really have several goals. One is to seek your input again on recommendations. Your input and advice on several topics that are important to the agency.

One of them was, of course, what is the best way, given our physical challenges, to continue getting your input without expending quite as much money, I think, on a full-blown, business-as-usual basis. Is there a more efficient way

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to get dialogue and input on environmental justice issues?

Another issue is timely advice. I mean, that was clear, I think, in the response to the hurricanes. It is very important to get timely, quick advice. And we need a mechanism for reaching out to the environmental justice community, getting the community's input before we take actions. That is very, very helpful, I think.

And we want to think about that now, not in the aftermath of a natural disaster, or some other emergency response. We want to have those mechanisms in place.

And we would also like your input on collaborative problem-solving. You know, that is an important thing that we are working on. And we will be looking for your input there.

Again, it is an important meeting here today because, I think, the recommendations you come up with -- I know you folks are sort of developing, or finalizing a lot of these recommendations -- are something we are going to listen to closely, and I think it is just the quality of those recommendations will effect definitely the reception they receive. But I am looking forward to them, I think the Agency has a mind-set now that they want to listen, and want to learn from this group.

I think, you know, maybe a year ago before the hurricane, it may not have been as evident to the Agency how

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important the work of this committee is, so.

Let me just end there, and really just open it up for any questions from members of the NEJAC group here. If you have any questions, or are there particular issues that you have that you would like to discuss related to the work in the next couple days?

(No response)

MR. NAKAYAMA: I guess you guys are looking forward to all that work.

MR. PRASAD: I know that you are very much committed, and we had a nice conversation at the last meeting. Can you give us some thoughts now that we will be finalizing this document and goes forward, what you plan to do -- why I bring that issue up is we are facing a similar situation back home in California too.

One of the things we are facing is that the committee makes recommendations, the committees go forward, and the agencies may incorporate it off in some fashion or the other. But the issues that were raised, and how it got addressed is the challenge that the community and the other people want to know, in essence, about our accountability on these follow-up set of factions.

So, has there been some thought, once you receive this, will it be the public, or how it will be known? Like,

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which specific ones move forward, which specific recommendations could not be, or it will be taken up at a later point of time? Some such response?

MR. NAKAYAMA: I am going to leave it to Charles and Barry to talk about the exact, you know, is it going to be a document, or how are we going to document. But we will definitely be addressing each of the recommendations, no question about that.

We have already, through informal, I guess, discussions, we hear some of the concerns you have, and we are already thinking about ways we could address some of those concerns, using the tolls we have in the agency.

So, for example, I think one of the concerns was how do we get the emergency response apparatus? You know, we have certain people and functions at EPA, and how do we get EJ considerations hard-wired in there? So that is something we are thinking about already, because that is a very sound recommendation, one that we are interested in addressing with you.

In general, I think we have typically -- haven't we given responses, Charles? Or how have we done that? When we get these recommendations, they don't go into the ether and we forget about them, we definitely want to respond.

MR. LEE: Yes. There is no process. I mean, I

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explained this to you last in January, where it is a more formal process now, where your recommendations go to the Administrator's office with a plan, and then specific offices to respond within a certain period of time.

This is something that grew out of many years of thinking about this, and it is something that is something of an innovation for federal advisory committees as a whole at EPA.

So there is that process, and the result of that process is actually a letter that was recently sent to Richard that details the responses to the last three reports. The ones on cumulative risk and impacts to ones on the meaningful involvement in tribal environmental programs and federal facilities.

MR. NAKAYAMA: One thing that makes this meeting a little different is -- a couple of the recommendations, how to get input, and how to continue and get input from the NEJAC group in the future. And how to do that in a timely manner. That directly affects our ability to have that dialogue.

So in the sense that we implement or address those recommendations, then we will have a vehicle for moving forward. And I think it will be very productive. And then I think we will have an ongoing discussion. Otherwise, I didn't want to get in the mode, and I think I stated this last

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January where, you folks make recommendations, and a year later the Agency comes back and says something.

It is not real time, it is not in the front of the decision-making. It is sort of after-the-fact comments. I would like to have the input from the environmental justice groups as we make the decisions, so it is part of the Agency's thinking. It informs our decision-making.

So that is what I am really looking for, a way to make that happen. And I am looking to you folks, and I know there are a lot of smart people here, so I am quite anxious to read your final recommendations.

MS. TUCKER: Well, if I am not speaking out of turn, Shankar, his question has also a historical perspective. We keep hearing from people in environmental justice communities what have your recommendations accomplished. And I am happy to hear that we at least have some response on the last three reports, and it will be great if all of the members of the NEJAC could also get a copy of that. We have a copy of it?

MS. : Yes, right here.

MS. TUCKER: Oh, okay. All right. Good, great.

But, what about all those earlier reports? It would just be great to be able to see what the Agency acted on as a result of recommendations from the NEJAC. I know that, certainly, we have integrated -- been successful in

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integrating EJ across programs within the EPA, but it would be great if we had that documented so that we can share that with our constituencies at home.

MR. LEE: Yes. The letter that went to Richard was just the first. And there is a process systematically of going through all the recommendations. In terms of the past recommendations of the NEJAC, you know that I did send you a -- you know, the responses -- the actions taken in response to a number of the reports that were directed to the Office of Solid Waste. The ones around Brownfields, the ones around waste transfer stations, and then we are compiling the other ones.

You should know that the Office of Water has set up a workgroup to document its responses to the Fish Consumption Report. So these things are happening.

It is going to come in different forms, it is not going to come in one compilation together, because it is an ongoing process. And just like as the letter says, there needs to be continual updates for you in terms of the continued actions that are being taken.

MS. TUCKER: One last thing on that. Well, no problem if they come in at different times, but if we could have a process to include them in a compilation as they come in, that would be good.

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MR. MOORE: See, part of what we -- welcome Granta, we really do appreciate your commitment and so on. I think it is important to state, as we continue this dialogue, that I don't think it is only a commitment on Granta's part. A lot of times people, quite frankly, give lip service and say I am with you, and I support this, and do this kind of thing.

I think it is really beyond that just to remind the Council with Granta, it is also what actually happens in practice, and we really do appreciate, not only your support, but your commitment.

(Applause)

MR. MOORE: One of the things, and I think Connie may be touching on a little bit, some of our experience in the past has been that we do a good job in some areas, but then the communications of that good job kind of breaks down. And I know we have had several discussions on conference calls with this Council, but we just highly encourage the Agency.

A lot of times, those that come to testify make public comments, send letters, do other kind of things, just don't hear sometimes of the real positive results of the work that they have asked for.

MR. NAKAYAMA: Yes, and I think that is a very valid point. I think we can do a better job of advertising the successes, or when we make changes, we need to let the world

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know that we are making changes in response to this group. And I really -- let's work on that, I guess, Barry and Charles.

Because that is something we can certainly do, and when there are changes, and this group is the one that was the catalyst, we ought to recognize you for that accomplishment. And that is something that, frankly, without the group we wouldn't have gotten there.

So, let me take that as something we can work on in the next few months here. That when we have these recommendations, and they are going to -- and they are, they are going to result in changes. The recommendations you folks make at this meeting, and when you finalize the document, we are going to respond. And when we respond, we could recognize. I mean, we need to let people know something is happening when good things happen.

Let me just mention one last thing, if I could. I know I mention this every time I meet with you guys, and you role your eyes, but you listen politely. And that is our website for reporting environmental violations. We have two pamphlets here that we will be handing out. One is in English and one is in Spanish. It talks about the website.

We have had a tremendous success really getting citizens to report potential environmental violations. It has

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worked incredibly well. We have marketed the website, and as more community activists and other people get to know about the site, we have had some very credible, very detailed, very helpful information come in.

And the volume and quality has just been astounding to us. And it has really helped us focus and address some situations in communities that probably we would have never even known about.

So I just commend that to you, the pamphlet. It is a website, we have totally retooled that website to make it easier, more helpful, to both the user and to us, with respect to potential environmental violations. Okay? Thank you.

MR. MOORE: Any other comments?

MR. COLLETTE: Granta, just basically a comment, but I am with the Florida Department of Environmental Protection. And I want to say, I have seen what has happened, because I previously served on the NEJAC -- that pass along my compliments. You can’t be doing what you are doing without a support from the top down, and I am impressed from what I feel, the support you are getting from Administrator Johnson and all. And I like the culture that I am seeing, and I just want to pass my compliments along up the chain too, because clearly, you have that support and backing.

MR. NAKAYAMA: Thank you.

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MR. MOORE: Wilma. Wilma, before you start though, could I please. Richard, could you just introduce yourself quickly.

MR. LAZARUS: Yes, Richard Lazarus, Georgetown University Law Center. I apologize for being a few minutes late.

MR. MOORE: Welcome. Wilma.

MS. SUBRA: When you talked about the community turning in violations, and doing a really great job, one of the things I need to caution you about is that then it becomes "enforcement sensitive." And the Agency gets really quiet and it is not able to communicate with the citizens who turned in the violation, or the proposed violation.

And I understand the issue is as you work through the process, you can't be interacting with the community and telling them what you are doing. But there needs to be a mechanism where you tell the community, thank you very much, and we are working on it.

If you are silent for two years, they think you are not doing anything and they are discouraged from turning in additional ones. So there needs to be something to fill the gap that doesn't compromise the enforcement action you are developing, but that encourages the community to keep involved.

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MR. NAKAYAMA: That is a very valid point, and we are thinking about how we can do that. I mean, as a first step, we used to never even respond when people would submit something. At least now they get an e-mail that says, we got it. We did receive it.

But you are right, we need to tell people that I think -- just this is good marketing, it is just good practice to thank people for the information at least, and explain to them that we are working on it.

We can't, obviously, provide all the details of where we are in our negotiations, or whatever, but we can certainly, I think, reach out and we need to do a better job of that.

MR. MOORE: Any other comments or questions? Kent.

MR. WARREN: Yes, I have one Granta. Going back to the website idea, I think that EPA has made great strides in its website in providing demographic data and enabling individuals, just from their computer top, to do demographic environmental analysis.

What I am wondering is in the disaster context, where we really need an integrated response of all federal agencies, Katrina being a perfect example of that. Is EPA able to generalize its tools to the other agencies so that we have some sense when Department of Homeland Security is

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responding to something, that they understand what the vulnerabilities are of the communities that they are going into, so they could, essentially, be prepared. For the problems in the Katrina context, it seems EPA did a good job on, but some of the other agencies did not.

MR. NAKAYAMA: Let me say, with respect to our databases, we are not integrated. I mean, I will be quite frank. We are not integrated now. One of the things I am interested though is getting this EJ function in our emergency response hard-wired into the agency, and we are better coordinated next time going in with all the other agencies. And people, I think, recognize that we have some expertise in this area with respect to demographics, et cetera.

We have something to offer, and having that tool, then other people don't have to reinvent it. We can go share it or whatever. I am interested in moving forward on that process, but I think -- you know, it sounds bureaucratic, but we need to get environmental justice, and our tools, hardwired into the emergency response effort.

Because, you know, it is going to be a comes as you are party. If we have the tool ready to go, and we are moving along those lines, obviously, we continue to develop those computer tools, I think we are going to be better able to help other agencies.

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And I think as part of the response to the hurricane, I think people realize EPA can do a very credible job in responding in our lane. You know, those things that are our responsibility, and we can provide information that is useful to other agencies.

MR. MOORE: Eileen.

MS. GAUNA: Thank you for speaking with us today. I just have one quick comment on your -- it seemed like your wanting to get a feedback mechanism that could work in real time, rather than over time, was very important to you. And having worked on these issues for a long time, I feel a little dismayed by that, frankly.

Because although I can see the need for it, to be able to have a group like this that works on very complex issues, from different value perspectives, as well as from different stakeholder perspectives, is -- you know, to have a group of people that can engage in very difficult conversations on complex issues -- to be able to put out a piece of work at the end of a long period of time is, of course, very valuable. But you need that ability to do that to be able to transfer that in some way into a mechanism that can provide advice more quickly.

So, I am hoping by hearing that comment, that the Administration isn’t looking at one or the other. But very

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much seeing that that creation of a mechanism to provide information quickly is critically dependent on a mechanism that works more slowly and deliberatively.

MR. NAKAYAMA: We are. Certainly. And there is certainly a process in place for deliberative thoughtful pieces that require, I think, input and thought over a period of time from a large group of people. I think we know how to do that, and we don't know how to get the advice, or we are not very good at getting the advice after the disaster strikes and we have one or two days. And really want to just hear, what is on the mind of the community now.

That is not an either or, because those are two different types of advice, I think, and very different, different circumstances. One is related to a specific event, the other is more I think a policy or philosophical type advice that we look for.

MS. HENNEKE: I am very excited to hear you split it out that way. I have lived my life in a different context, one where you have to make a decision and be ready to turn on a dime. But at the same time, you have to have the back-drop with which to make that decision. And to me, they are very different. They are integrated, tied at the hip, but if you can't do both, I think you are screwed, to say it very bluntly.

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And I think the very long decade that we went through over a couple of months last summer, and continue to go through, illustrate that. But, again, to me you have to be able to turn on a dime. And in order to turn on a dime, you have got to make a decision. And in order to make a decision, you have got to have the input with which to make that.

But, there has got to be a back-drop for that, and most of the time, that is a historical back-drop.

MS. BRIGGUM: Yes, no. It has already been said -- but it hasn't been said by me -- I just want to echo what the two of you have said. I think that having those two opportunities are extremely important, and what brings to mind is what Kent had keyed up in terms of the Waste Transfer Station Report; which, at the time, was highly topical. It was in the news all the time, there were very, very different opinions. A number of sites that were extremely controversial.

And I think those of us, and Connie was part of it as well, who worked on that felt very proud to do, was come up with a very substantive consensus document that, I think, really has helped better decision-making with regard to projects.

And it was, I think, a real tribute to EPA that they were willing to do that as well. Because transfer stations

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are really regulated by the states, but EPA took very seriously the NEJAC efforts. It took a long time, lots of visits, and talking. But, as we see it, not only provided a guidance document, we pretty much all look at now when you evaluate that kind of facility.

But, as Kent mentioned, it also had some methodological benefits in terms of how do you make sure you get community input when otherwise you would be looking at literature review, and things like that. So, I would really commend you for looking at both kinds of advice.

MR. MOORE: Eileen?

(No response)

MR. MOORE: Okay, any other questions or comments from the Council members?

(No response)

MR. MOORE: Okay. Granta, would you like to make any other?

MR. NAKAYAMA: Just thank you for the opportunity to come address the group.

MR. MOORE: Good. Well, again then, we thank you on behalf of the Council for your commitment, for your work, and we are looking forward to the integration of the recommendations and receiving word and communications back on that. So, thank you again.

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All right, I think then we are ready to go back into -- I think, David, you were going to be going next. Kent, did you finish your comments there?

MR. BENJAMIN: (Member nodding his head)

MR. MOORE: David. Thank you, Granta.

MR. NAKAYAMA: Thank you.

Unintended Impacts of Redevelopment and Revitalization

Efforts in Five Environmental Justice Communities - (Cont'd)

Remarks

by David Lloyd

MR. LLOYD: Thank you, Richard, and Charles, and members of the Council. I appreciate being invited to come speak with you, to meet you. I haven't had the opportunity to interact with NEJAC and with Council in my professional capacity at EPA. A number of people in the room I have worked with on different EPA issues, so I look forward to meeting with you, working with you closely on many issues.

And I also would like to say, just as an introductory comment -- and I hope it isn't lip service, and I hope it isn't taken that way. But the staff of the Brownfields office, and OSWER -- but the Brownfields office, particularly, feels very strongly about environmental justice issues. Many of the tenants of the environmental justice concern underlie the Brownfield's goals.

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I mean, one of the central issues -- and it really gets to some of the recommendations, which are going to be coming out in your report, are the whole notion of community involvement and how to do that. How to have meaningful community involvement, getting toward the issues of redevelopment.

I have had a little in my prior positions at EPA. I have been involved in real estate development issues, but more in private practice, law practice, I did have the opportunity to work on some development projects, and some that didn't go very well. Some were the unintended impacts were all the things you don't like to see in terms of sprawl and displacement, et cetera.

So, I am familiar with those notions, and they are not simple problems, I recognize that. They are difficult problems to balance, but as Kent said, I think that -- you know, I look forward to sort of the formal transmission of the recommendations and the opportunity to work internally in OSWER, and then with you to come up with possibly implementing some of these.

I looked at the summary recommendations -- I mean, I read the report that was provided, but I also looked at the summary. And I can, certainly, understand the thinking and the reason for all of this. They make sense.

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There are some issues with how we could implement those, I think, but that is why this process that Kent described is going to be productive, I think and useful.

And I am glad that it is somewhat formalized because it puts a time limit on it, and that is what you need, I think, to really sit down and hammer out how can you do some of these things.

If I could, just mention a couple of things, that as I looked at it, I think I was pleased to see -- you know, I just joined the program in January, but I was pleased to see that there are things we are doing now that I think are directly going at some of the recommendations.

And while they are not new, I think they are sort of invigorated in the Brownfields program right now. And, certainly, the meaningful involvement, and what that really means for the program, is something we are talking about a lot, and with our regional coordinators. Because while we do have a requirement for that in the grant award process, the application process, we have questioned, are we really giving that the proper meaning and enough weight.

That is a little different than it is being addressed in the recommendations, because I know you are talking about redevelopment issues. But I think the idea is we are thinking about it.

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Also, I think the other thing that jumped out at me is the whole issue of state, tribal, and federal agencies working together. One of the things that we are going to be doing, we are now starting in the Brownfields program, is we need to find ways to strengthen our outreach to the tribal communities. It hasn't been ignored in the Brownfields program by any means, but we recognize we are not getting the word out as effectively as we need to.

We are going to put resources into it. We have a competition going on right now to try to get some outside help in that regard. And I think that is going to be productive, and we will be making decisions on that in the summer and months following.

And then, lastly, I just would reiterate that the problem is complicated to find really robust redevelopment that doesn't displace members of the community that were there. That have struggled and suffered with that situation, but I don't think it is something that can't be addressed. And I think a lot of the communities -- and you have some of the pilot communities you mentioned, in East Palo Alto -- have thought about some good ways to get at that issue.

And I really welcome the chance to work on the report and to look at them. Because I think notwithstanding that they have been raised in a list of issues, these kinds of

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things are going to be central to all Brownfields redevelopment, and all the Brownfields communities will benefit from sort of thoughts and input on this.

And, ultimately, that is the -- the Brownfields program is about communities, and helping communities at that level. And I think it has been successful because the people that -- I, certainly, can't take credit for the way the program has been developed and designed, but I can appreciate it. And I think that is really the biggest strength.

So, with that, I would open it up for questions or other ideas.

MR. LEE: I just wanted to thank Kent and David for their remarks, but I just want to also note that, you know, David hasn't been the Director of the Brownfields office for very long. He took over from Linda Garczynski at the beginning of the year.

And as you know, Linda has been a real stalwart champion of environmental justice. And David has indicated to me many times how he also wants to carry on that work. So, I thought it would be very important that this committee heard that message coming out really loud and clear from David. And thank him for that.

MR. MOORE: Kent, I just wanted to begin to open it up for discussion on the Council. Before we do that, I just

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really would like to thank Andrew and all of those that worked on this report. The Council has had the opportunity on several occasions to review it. We have had conference calls to discuss it, and so on, and added some of our recommendations.

I don't want to rehash all of this, because we have had public comment on it, and there have been different venues that have taken place. But just, again, to remind us that the importance and significance of what I will say, this particular piece of work.

One of the things that in environmental justice organizations, and so on, that we have been bringing up -- and you see some of it flagged in some of the recommendations from the report. So, I don't want to go through a lot of those, but the gentrification has really been taking place in many of our communities.

One in the area, as designed as a Brownfields area, and how that many times where we live at in our communities, is somewhat prime property. Although, many times they may be housing projects that --- have overseen. The river or the creek sitting kind of on the top of the hill, or whatever, but that river or creek has been cleaned up in many occasions. And then the property becomes prime property for development.

So, there always has been concern that has been

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being expressed throughout this period of time, of yes, let's clean it up. And then, let's figure out together ways that we can assure those that have lived there historically, and then, unfortunately, have lived with the problems and the contamination, and so on, other facilities, have the opportunity to stay in that community, or in that area, if they choose to do that.

Before, Andrew, I just go back to you, I think also just to say that we have heard testimony in the past from those that the five, what we will call case studies -- I will call them, for the sake of their language -- but the place study areas. East Palo Alto, important. Very, very significant, the make up of that community.

Portland, Oregon, with the Albino community. I think we also have heard testimony in the past from residents of that community; not only join public comment, but at times during some of the travel to some of the other NEJAC meetings, Washington, D.C. and the Navy Yard, same thing. Many a times when we have been here, we have heard testimony from those communities.

Also, to your comment, David, I think it is very, very important, and the Cherokee Nation in Oklahoma was one of the sites that was looked at in terms of doing this case work. And I definitely have to agree with you, we have to

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continually keep engaged; not only Tribal Governments, but also grass-roots organizations that live on, or live within Tribal Nations.

Pensacola, Florida, I mean, we know that. We know the issues, we have heard testimony, many times we have visited, and so on. So I just wanted to just get us back there. Andrew, when you are finished with your comments, I just wanted to open it up for discussion from the Council members, and then suggest a protocol, or a process that we use to move us right through this process. Andrew.

MR. SAWYERS: Thanks, Richard. I was remiss in actually acknowledging Kent's support, and his office. Kent mentioned that we met last year, and the entire Solid Waste Office, all the directors, actually, met and pledged to support the work of the Unintended Impact Workgroup.

And, historically, the Solid Waste Office has been extremely helpful, and I just wanted to sort of applaud you guys and thank you for the work that you have done so far. And, hopefully, that kind of support can continue.

And, frankly, Kent has been sort of a stalwart in supporting this work. So, thank you, personally, for the work that you have done in support of these communities.

I wanted to also acknowledge Randy Gee, who is one of the -- Randy is from the Cherokee Nation. He was one of

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the place study authors. Is Randy here? And thanks to Randy, and again, Butch, and John Ridgway, and the others for the work that they have done.

But in sum, what I would say is that the work that is contained within this report and, certainly, as David says, there is a lot of opportunities for us to sort of look at this to inform certainly some of the decisions that we have made in the past and making them better if we can. But future decisions, I think, there is a lot of work ahead of us.

We will continue to see revitalization, we will continue to sort of have this delicate balance. How do you development communities not at the expense of people who live within those communities. And how do you sort of thrive economically at the same time, you know, help some of the folks who are disadvantaged.

So, again, I would just like to thank all the committee members who worked on this report and, hopefully, we can glean some very positive rewards within this report that, hopefully, will help us. And I ask that NEJAC sort of look at it and, hopefully, we can transition a document within a timely manner to the offices that can better support some of the recommendations. So, thanks again Charles, Richard, Barry, the entire workgroup, and the NEJAC members who have spent many months deliberating on this report. So, thank you.

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MR. MOORE: So I think we are going to begin to kind of go through the process, just to add our additional input into the report. I am going to try to keep us as close on track as possible, because we have had the opportunity to review it before, we have discussed it, we have made some comments to it.

And just to remind those that additionally have joined us today, that during the public comment, if there is any other comments that would like to be made in regards to this report, that people will have the opportunity to be able to do that.

So, there have been some comments that have come to me before arriving here in Washington, and so on. And maybe in regards to language condensing, or whatever, the recommendations, but I just want Charles to keep one thing in mind. The group has worked very hard on this report, and we want to respect that.

The Council has worked very hard on this report, and we want to respect that. The public comment has been made in previous that got us to the report. So when we get read to edit, that is where I am getting ready to go to, I would ask us to very cautiously watch how the language gets changed.

Because you know in some cases, the role of this committee is to add on, to do some of that work. But one word

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sometimes -- and you all know that -- could be totally different than what it started off to be. So I want to open it up for discussion amongst the Council. Charles, I don't know if you have any comments that you would like to make, or Barry, before we go into this process.

MR. LEE: Either way we could do this. The Council does need to go through the specific recommendations to make sure that you are in agreement with them, or if there are ways that you feel they could be strengthened.

And then there are the other issues that you mentioned, Richard, that we need to get through. So we can get through those either way.

I also know that Andrew does have some thoughts about ways that some of the draft report can be strengthened as well.

MR. SAWYERS: I just want to say something from sort of an editorial perspective. Any of the language change that can be made, frankly, should not preclude you from sort of approving, as Richard said, approving the report. Certainly, those comments or those edits can be made at some point.

But I think, in general, what we would like to see is the entire NEJAC look at the report from a substantive nature in terms of what is being communicated and, hopefully, we will approve the report.

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Review of Recommendations

MR. MOORE: Okay, maybe then a suggestion. Could we go into the recommendations first, Council members, and then just see if there is any questions, comments? Then, when we complete the recommendation section, we will go back and see if there is any language that is being used that others would move forward. Wilma and then Connie.

MS. SUBRA: I will wait until after you do the recommendations.

MR. MOORE: Okay. Connie.

MS. TUCKER: First let me say that I was on the Waste and Facilities Siting Subcommittee. I joined it right in the middle of the workgroup's work on this. And they did appeal to me to get involved with the workgroup, but I never really did. And I apologize for that, but I thank you for your recommendations.

I think I am really, really impressed with the recommendation made -- number five, I will start with the one that I am most impressed with. I would like to see that even strengthened to read that a demographic assessment be done as a part of the application process. It is not that difficult to do a demographic assessment. So I would like to see that become a requirement of the application stage.

And the post-assessment -- demographic assessment --

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be a requirement of receiving the grant. I really wish somehow, if it wasn't so subjective, some sort of quality of life measure could be added to that. But I am not sure how that could be done.

For number four, I am not sure how this particular recommendation fits into the Brownfields process, but I can tell you that in my experience, doing any kind of clean-up process, whether it is a Brownfields, or a waste site, we hear over and over again that nearby residents suffer respiratory problems, et cetera.

And it seems to me that there ought to be some attention made to the unintended impact of clean up during a Brownfields clean up.

And, finally, for recommendation number six, I am not clear about that. When I read number six, I thought it was recommending that state, tribal, and federal agencies get involved in local land-use planning; which, I think, is not statutorily possible.

So I am not sure what number six means; although, I certainly think we should have some language in there about reaching out and involving tribal governments in the Brownfields process.

MR. SAWYERS: Connie, if I may, I will just respond very quickly to six. You are absolutely correct. I think the

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idea here was to encourage state and tribal entities to be more involved in the process. But you are absolutely right, there are certain prohibitions, if you will, that would not make that recommendation feasible in the context that it is currently written. So, we will reword that to better demonstrate what we are thinking about.

MR. MOORE: If we could just stay on that just for a minute. Were there any other comments? And I have got the cards, but just to complete Connie's when she finishes, and then just see if there is anyone that has comments specifically about what Andrew was speaking to. So that we maybe don't have to jump back and forth. Connie, did you have others?

MS. TUCKER: Yes. I wanted to be clear, we are going to stay on number six, is what you are saying, right?

MR. MOORE: That is what I am suggesting.

MS. TUCKER: Okay.

MR. MOORE: Was there any other comments in regards to six? So, we have Chip and -- Chip, could you go ahead please, and then we will go with Shankar.

MR. COLLETTE: Yes. Six isn't as impossible as you think. In Florida, we have the Department of Community Affairs and the Comprehensive Land-Use Act, and we require local governments. So we have an overall comprehensive land-

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use scheme. A scheme that comes from the state and goes to the local government levels.

And is reviewed and updated, each county's plan, by the Florida Department of Community Affairs. So we do have a comprehensive system in Florida, because we recognize the problems with land-use. So, it is not entirely done, or not impossible.

MR. MOORE: Okay. Now, Kent, your card was up there, was this regarding number six? Recommendation six?

MR. WARREN: (Member nodding his head "no")

MR. MOORE: Okay, Shankar and then Jody, and then Richard.

MR. PRASAD: I want to congratulate the group for a good job well done. You really have done a good job in identifying the major issues, and so on. And I like this issue of the land-use, which probably comes as a fundamental to most of the environmental justice problems for the actions we have taken over these last 100 years or more.

And still, when we say we want to participate, I think more part needs to be given. Because each type of land-use has been kind of different, and multi-jurisdictional authorities of that. Departmental construct gets --- what permit to operate may not even be applied for a year or more. So, some of those things are all hidden into that process.

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So, my question around this --- when I marked up was, they should participate, but the challenge is how. These become some very critical issues. So some kind of an explanation in --- needs to be added.

In addition to that, one of the things that you could consider is in --- development side of any of these things. Can you develop a guideline that people can use it, that you have said, what are the things that you look for, are in this specific types of land-uses. These are the considerations that must be given.

That is one way of saying though, that way you have, here is a document that has been gone through and agreed upon by a body, recommended by the state or by the U.S. EPA, which can be used by the local authorities as this is what is recommended. That also use a tool for the communities to be going, say that this is not being followed up. These are the other types of analysis that needs to be considered, once they have that kind of a guidance document.

So maybe even not be able to do that for a large number of facilities, or every type of facility, but at least we can categorize in the top five and trying to get into that context.

MR. MOORE: Jody.

MS. HENNEKE: Not to contradict my good friend,

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Chip, but --

(Laughter)

MS. HENNEKE: But to tell you that I am going to contradict my good friend Chip. In the State of Texas, land-use planning is pretty much the third-rail when it comes to State Government. Land-use planning is almost totally exclusively reserved for local governments. There are a tiny, tiny bit of exception, but almost exclusively local government.

So I think our efforts, as Shankar said, the state can participate in discussions; perhaps, as it relates to landfills. In my state, we have solid waste management plans that local governments contribute. I mean, it is their document, but we give them some advice on. But it is almost exclusively local government in Texas.

MR. PRASAD: Well, it is the same in California. That is why I said we can recommend only guidelines, we cannot say it is mandated.

MR. COLLETTE: I am sorry, I wasn't speaking west of the Mississippi.

(Laughter)

MS. HENNEKE: It is that Civil War thing in Texas.

MR. MOORE: Still some of that struggle going on. Richard.

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MR. LAZARUS: Just a few thoughts. First, I just want to say I really thought this was just an outstanding report. It is one of the best NEJAC reports I have seen. And I think the working group really deserves a lot of credit for putting this thing together. It is just well written and well thought out.

I had one question about -- oh, you know what? I just realized, you are on recommendation -- I am on recommendation five, you are on six.

MR. MOORE: Okay, if you don't mind.

MR. LAZARUS: I will go away.

MR. MOORE: Okay. Now, did we get the responses, because we stayed with six there for a bit. And it looks like we did, Andrew, before we move on.

MR. SAWYERS: Yes. I think Jody is absolutely correct. The land-use issue is sort of the local jurisdictional issue. But I think what the workgroup was communicating is that they have seen that because it is a local jurisdictional issue, there have been so many problems that cannot be resolved, and I think they were trying to figure out ways to encourage, certainly, the state agencies, other stakeholders, if you will, how to enable them -- and this is a how question from Shankar -- how to enable these other stakeholders to become participants in this process.

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So, from that perspective, it is a very legitimate recommendation. I think the challenge, certainly, will be how to sort of operationalize that how part of it. And I think if you sort of read further along in the report it says, it would encourage EPA and other partners to think about that. Thinking about how to operationalize the how component. And I, certainly, concur and I think it is a legitimate recommendation that should be pursued.

MR. MOORE: Thank you, Andrew. Connie, were you still on six? Eileen, are you also -- okay, Connie and then Eileen.

MS. TUCKER: You know, I am just concerned that we support recommendations that are realistic, based on the body of politics. And also, are possible to achieve. And it is not possible, I don't think, with the exception of the State of Florida, both east and west of the Mississippi, for state and federal agencies to dictate local land-use planning.

So, perhaps, if we could form -- the recommendation as it now stands, I couldn't support. But if we did something else, like recommend that the EPA in concert with state governments develop recommendations and guidelines for land-use planning by local governments, then I could go with that.

But we don't want to look like we don't know what is going on out there in the world. And what is going on out

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there in the world is that local governments almost have exclusive rights -- even though we may not agree with them -- and, certainly, we have been victims of, especially, people of color, have been victims of land-use planning.

So, with that, I think I made my point.

MR. MOORE: Eileen. Shankar, if you don't mind, I am going to go with Eileen, and then we will come back over to you there.

MR. PRASAD: That is fine.

MR. MOORE: Okay, thank you. Eileen.

MS. GAUNA: Well, I am trying to think through right now how this may pertain to number six, but I am thinking about this idea of -- you know it is, I agree with Connie, it is hard to actually participate in local land-use decisions when they are being made, well ahead of any decision with respect to any Brownfields redevelopment problem.

A lot of times, the local land-use, zoning, and ordinance, a so forth, are already in place. But I know what is being attempted in New Mexico at this point is to whenever the state has to issue a permit, or so forth, is to give deference to local land-use decisions if they explicitly consider environmental justice.

So as to sort of prompt, or provide incentives for local land-use agencies to consider environmental justice at

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the onset, knowing that when a state, for example, or perhaps the Federal Government, in this instance, would exercise some regulatory authority, that they would give deference to that in some way.

I don't know exactly how that idea may fit into six, but I just thought I would throw it out there as a suggestion, to think of ways to provide incentives to the process that might be doable.

MR. MOORE: Any other comments? Sue.

MS. BRIGGUM: Yes. Well, one practical way to do this, because we want to get this document out is, as I recall in the Waste Transfer Station document, there was a pretty good discussion about local zoning authority and the issues of trying to enhance that with principles of environmental justice. Perhaps, just a cross-reference and a brief sentence describing the discussion there might help a lot.

Because I think that captures, Connie, as I recall, the discussions in the past, and exactly the issue you raise.

MR. MOORE: Thank you, Sue. Any other comments regarding six?

(No response)

MR. MOORE: Okay, then we are going to move on. It will be Kent, Richard, and Shankar. Kent.

MR. WARREN: I am trying to fit this report into

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what I do on a daily basis, because I do represent developers quite frequently in the Brownfields context. And I think in terms of identifying problems, the report does an excellent job. I mean, there is clearly a problem out there, and some of the solutions, I think, are creative and I would certainly support.

But I sort of approach this form a slightly difference perspective because, while EPA grants are important from EPA's perspective, they are a very minor issue in the overall question of Brownfields development. I mean, there are states that give out more money for Brownfields than EPA does nationwide.

And, you know, if you think that there are 450,000 or so Brownfields sites across the country, a handful of them are going to be dealt with by EPA grants. So, the question is, what influence does EPA have over Brownfields development? And I think the answer is, liability.

Because the reason that we needed the Federal Brownfields Act was that Brownfields weren't being addressed because of the potential for Superfund liability. And the key EPA regulation that deals with Superfund liability is all appropriate inquiry.

Because once they develop or performs all appropriate inquiry, that developer by statute is protected

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from liability, which it inherits any contamination at that site, with certain limited ongoing obligations and re-openers. But, they are very limited.

So, if we are really looking to ask the question what do we want market players to do, which are the developers who are going to be addressing these sites, you need to put that into some form of guidance, recommendation, --- the thought regulation, which asks them to look at those things that we want them to look at.

So, if EPA comes and does a demographic assessment before and after a development, I hate to say it, but who cares? I mean, you might, in terms of an overall perspective say, now I know better what the effects of development is, but it isn't going to help that community in particular.

To say that EPA should be involved in zoning decisions, by way of guidance, or by way of participation, is not practical. I mean, EPA doesn't have the resources to go to the 2,500 municipalities in Pennsylvania, all of which have Brownfields in their municipal jurisdictions and say, we are now going to advise you as to what your zoning regulations should look like.

And I don't think that many municipalities would be very receptive to EPA if they did decide to come in and do that. So, as I see the problem, it is not so much how do we

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want to handle EPA grants, or what kind of assessments do we want the government to do, but it is how can we shape market forces which are really controlling this process in a way that makes the outcome more sensitive to environmental justice questions without jeopardizing the economic viability of the redevelopment, which is what is causing these developers to come in the first place.

So, it is a slightly different perspective, and it doesn't take away from some of these recommendations, which I think are creative. But it says you have defined the problem, but the solution, I think, is to influence the market forces that are causing the development not to worry about EPA grants as much as this report seems to do.

MR. MOORE: Richard.

MR. LAZARUS: I just had a question about recommendation five. And that was I wasn't quite clear on the recommendation in terms of who was preparing the demographic assessment. It talks about EPA acquiring one, and fostering them, and it says the assessment should be done by local residents and stakeholders. But I was just unclear exactly who would be doing the assessment in these situations. I think it is a good idea, but I wasn't quite clear who precisely was doing it, and how it fits into the decision-making process.

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MR. MOORE: Andrew.

MR. SAWYERS: I am going to attempt to speak for the folks who wrote it. I am assuming that by obtaining EPA support and their thinking -- and some of the members are here, they could correct me if I am speaking out of context -- but, certainly, to get a third-party, preferably a university outreach center, some third-party that could actually do a credible assessment, if you will.

But the idea was to make sure that the community was involved in that assessment. That they understood what the key indicators were. That all the stakeholders, including the developers, were fully aware of what they will be looking at. So, you are absolutely right, in terms of sophistication, the community would not be sophisticated enough.

I know during this discussion, there was talk of figuring out ways to inform the community to do this kind of assessment. But just from a time sensitive perspective, it would be rather difficult. I don’t know if Kent has anything to offer.

MR. MOORE: Kent.

MR. WARREN: I think that part of what they were looking at was in the Brownfields context. And I want to remind folks, this was not limited to Brownfields. But that in the Brownfields process, you have an application and the

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application has required community involvement EJ plans over the years.

And a demographic assessment could be potentially part of that package of materials to say what you mean when you do those things. Who you are referring to when you say the community, or you say you have done an EJ analysis, something like that.

MR. MOORE: Now, did we get some clarity to that, Andrew, when Kent spoke?

MR. SAWYERS: Did that help, Richard?

MR. LAZARUS: It does help. I am still not quite sure how we get any assurance that it becomes part of the decision-making process. I mean, that is one question. I guess if it becomes a requirement as part of the application. I mean, it says EPA should require -- foster, if not required. So I was not sure who was being required to do something. Is it going to be part of the requirement of the application?

And then, I guess, there is, of course, the broader issue that you raised, and that is this is only dealing with the EPA applications, and not dealing with the far greater set of Brownfields beyond EPA.

And I am not quite sure how it -- whether we are talking about just the EPA applications, or whether we are talking about all Brownfields.

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MR. SAWYERS: You know, if possible, can I speak specifically to that issue, which both Kent and Richard are talking about. I think that the primary audience for the report was EPA. And the jurisdiction, the charge that was given to the subcommittee was to work specifically on making recommendations to EPA.

So, I would be particularly cautious about extending any recommendation beyond EPA. I think Kent's recommendation certainly is quite valid in sort of looking at market forces and such. But that was not a part of the charge. It would be rather difficult for the members to even get to that point.

I want to go back to the issue of zoning regulations, and I absolutely agree with Eileen. As a matter of fact, we are contemplating within Maryland for certain jurisdiction that there are concerns about environmental equity issues, specifically, as it relates to zoning.

That if there is a permitting question that the state has any involvement that there are certain conditions attached to that permit that would enable the local jurisdiction to attach certain conditions to either mitigate the concerns that the community would be facing.

So, I think there are opportunities to do that, and I would not sort of categorically dismiss any potential involvement, specifically, from state government in informing

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local land-use planning.

And if we decide to go that route to sort of categorically dismiss it, then we are essentially saying to ourselves, there is nothing we can ever do about local planning, and the local communities we will continuously be faced with trying to sort figure out ways to struggle, to restrict, or whatever they are trying to do, they will never be able to do so.

So I think maybe we should rewrite that recommendation, but we should figure out ways to if the Federal Government cannot be involved, that is fine, but I think from a state government perspective, there are opportunities to do so.

So, I just want to offer that for those of us who are in state government who are working to address some of these concerns, I think there are opportunities to do so.

MR. MOORE: Okay, we had several cards up. Shankar and then Jody.

MR. PRASAD: A clarification, Kent. You mentioned that you already have some requirements and there is a potential for demographic assessment to be included. So, in essence, this could be a directive to EPA in whatever that phrase that you use in Brownfields evaluation process, that the applicant included this. Did I hear you right? That it

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is a possible route to consider for you?

MR. WARREN: Well, without putting Dave on the hook, he can answer that more specifically if that is something that they could augment in the application guidance. But we have in the past had a community involvement plan, and an environmental justice plan.

And in those, people have typically said, you know, this is who the community is, and those things. They have given some data, but not necessarily -- I don't think they have been required to fit that data into a specific box.

MR. LLOYD: Kent, yes, I think you are correct. It hasn't been required in that form. And I think that it is something that I would like to look at, I would like to talk to the regional coordinators about, and the folks in the office, I think, as a matter of whether it could be done and put into the guidelines. And in some way, I think, yes. I don't think there would be anything that would prohibit that.

There are already other sort of data collection elements, like health monitoring and things related that can be included.

So it is something as the report is out, we would look at. I appreciated the comments that you made, Kent, too. I think it is important to keep it in context, because the whole brownfields (with a small "b") maybe as I like to say,

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is so huge. But, yes, I mean I think we will look at it as part of the recommendations and how it might be implemented.

MR. MOORE: Jody.

MS. HENNEKE: Richard, my comments, if you need to move me, tell me. But I wanted to bring it up because there is one in recommendation number five. There are a couple of places in the report, which, by the way, for the sum of the whole, I really like. There are a couple of places that I think when you read them jump out and kind of smack you, that I think would detract from the meat and weight of the report.

And that is like the last sentence in recommendation number five. When you read that, you are going from unintentional to intentional. And I don't think that is the intent of the writers, but I think it is the kind of thing that the more casual reader can grab onto and use it to ration up the kind of inherent volatility of this whole process. To me, that last sentence really kind of detracts -- well, like I said, to me, it runs the risk of detracting from the weight of the report.

There are a couple of them in there, but that, since we are on recommendation number five, I wanted to illustrate that one.

MR. MOORE: Andrew, do you want to respond to that?

MR. SAWYERS: I fully agree with Jody. I actually

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have that sentence fully marked out.

MR. MOORE: And I am sorry, Kent, I am saying Andrew, but that kind of means both of you.

MR. SAWYERS: Just a correction too. I mean, even though I have it marked out, I will have to figure out a way to make sure I run that by the committee members. But I absolutely agree with Jody. There is some sentences in here that detract from the report, and I would recommend, and I will certainly will talk to Kent about getting rid of some of those. They could easily tell me not to, but I will still recommend it.

MR. MOORE: Kent.

MR. WARREN: No, I get us confused too.

(Laughter)

MR. MOORE: Not confused, I don’t want to go there. Okay, Connie, you had your card up and took it back down. Are you all right, Connie?

MS. TUCKER: I have something I don’t clearly understand -- what needs to be said -- but I think that we, perhaps, need to really consider what Kent said over here. Because this, as it now stands, the impact of this report is just going to be on a small number of brownfields that are granted through the EPA.

Kent gave us something here and we didn’t bite on

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it. And he said that, that the caveat we have for developers is the whole question of liability. So, I am not smart enough to get all he said, but I had a feeling that if we made a recommendation that had to do with the regulation of redevelopment, what is that, Kent?

MR. WARREN: Oh, appropriate inquiry?

MS. TUCKER: Yes, appropriate inquiry for a demographic assessment, for pre- and post-demographic assessments, we might be able to get that from Brownfields developers outside of those who are being -- local governments that are being given these EPA Brownfields grants.

And the other one, if we could speak to this one and resolve that, and then get back then to the land-use planning one, I think we need to come up with some final strong recommendations on that one.

MR. MOORE: Okay. Shankar.

MR. PRASAD: It is not on five or six.

MR. MOORE: Okay, any other comments? We moved from six to five, anything else on five?

(No response)

MR. MOORE: Okay, Shankar. Eileen, I am sorry, was yours on five?

MS. GAUNA: (Microphone not turned on) It was a follow-up to Connie's and Kent's comments. And you know,

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again, I am not sure where this falls within the total report. It seems like you are circling around a recommendation to consider the regulations on all appropriate inquiry under the new Brownfields legislation.

But those regulations have already come out, that wouldn't preclude us as a body from saying, you know, we think you should revisit that and reconsider an environmental justice criterion under the regulations for all appropriate inquiry.

I am not sure where that would fall within the report, I think it is a darn good idea not to lose the thread of that. It is just the timing. I mean, I sort of saw this whole report as very limited in scope, because it does deal with EPA funded grants to Brownfields redevelopment projects, which are very small in the universe of Brownfields overall, because like you said, there are a lot of state Brownfields program that don't use these funds.

But, it could potentially be used as a model for state Brownfields redevelopment projects. So, in that respect, I see that -- I guess I disagree a little bit with the comment of, well, who cares. You know, it is EPA funding in a very limited set of circumstances. I think that we can still use it to develop a good model.

So, in that respect, I would invite us to consider

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making a recommendation to think about environmental justice criteria in all appropriate inquiry regulations.

MR. MOORE: Andrew.

MR. SAWYERS: I absolutely agree with Eileen. It is a time issue. The regulations actually, as Eileen said, they were passed a few -- quite a while ago, actually. Maybe a few months ago. So, we would have to figure out a way to say to revisit these.

The issue of liability is one that I have sort of dealt with in a different context. Particularly, from a financial perspective, and I think we could effectively kill the report if we decided to go down the route of pursuing liability in this context. And I think there are some opportunities here, but just because of the members who worked on this report, unless NEJAC has a group wanting to sort of pursue this, that would be a separate issue.

But I am not sure if the resources are available to pursue it in that context. It is a very complicated issue, and Kent will probably tell us all. I think we could certainly make a recommendation concerning the appropriate inquiry as a criterion that should be included. But beyond that, I would be sort of hesitant to pursue liability questions in the context of this report.

MR. MOORE: David.

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MR. LLOYD: Yes, I would just add that the all appropriate inquiry rules, as Kent was eluding to, did become final in November of 2005, and it becomes effective November of 2006. And I would just, for the benefit as you think about this issue further, the negotiated rulemaking that lead to that was it is not unprecedented, but it is unusual that the agency was able to do that.

And it was a huge effort. I think just to keep in mind as you consider it, that a suggestion that that be either revisited or reopened would be a big challenge to get that through agency management, because of how difficult it is to get one out. And I think it was generally considered to be a successful effort, because it did happen in less than a year. So, just to keep that in mind as you consider this further.

MR. MOORE: Okay, any other? Charles.

MR. LEE: Yes. I think the discussion here has been very, very good, but I think we need to be mindful of what point in the process we are at. This cannot be a general discussion to be revisited later. I mean, you need to come up with at least the substantive language that you want to have in terms of your recommendation.

So, I think that the discussion here has been really quite good. I mean, if we want to, we can go back to number six, and you need to do that in order to come up with some

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specific language.

I think you also need to go through each of them, the seven recommendations. Because you need to actually take a position on whether or not you want to support these recommendations and needing to go forward. Then, I think, there is this other recommendation -- possible recommendation -- on the question of all appropriate inquiry and the regulations.

I mean, I think what I would suggest, Richard, is you put that on the side for now. Go through number six, which is on the table, go through number five, which is on the table, and then go back to the rest of them, item-by-item through the recommendations, so that there is a clear message as to whether or not these are recommendations you want to adopt and move forward.

MR. MOORE: That is fine. Andrew?

MR. SAWYERS: Charles, this is just an assumption, and I probably am incorrect here, but I was assuming everyone was pretty much okay with recommendations one through four. Because we went straight to five and six. I am assuming there were not problems with the others.

MR. LEE: Yes. I think maybe that you, in fact, may be correct. But I just want to make sure that you go through it systematically.

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MR. MOORE: Okay. Now, that suggestion, are we fine with that Council? We are going to stay on five, we have got one card up. Juan, do you want to introduce yourself please?

MR. PARRAS: I am Juan Parras with De Madres a Madres. And my flight got delayed, so that is why I was late. Thank you.

MR. MOORE: Thank you. And welcome, Juan. Juan came in from Houston, if anybody has been keeping up with the news.

We are going to stay on five, Shankar's card was up, and the we are going to just go back and we are going to say, one, and we are going to move right through them.

And then also, with Charles, very good discussion, but we are going to have to be a little bit more deliberate, a little bit more tighter in terms of our stuff, because then we got to go back to the general report, any language -- suggested language changes, or whatever. So, I just want us to kind of tighten it up, good discussion, and move forward. Shankar, were you on five?

MR. PRASAD: Five. Just a clarification. You have here implied by using both foster, if not required. Obviously, your group went through some discussion to use those terms, in the order in which it is there. You could have used should require, if not foster, but you chose the

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other way around. Can you elaborate a little on that?

MR. WARREN: Sure. I will say that this work was a work of intellect and passion. And at times, recognizing that we had constant conversation about, as Charles and Andrew said, that this was a report to EPA. And acknowledging that as much as could be acknowledged with respect to some of the passion around the issue, that certain things are just not in EPA's purview.

So, the term foster in that case, not without the benefit of perfect memory, would have been most likely to put emphasis on the fact that there might be things that EPA could do relationship wise to promote certain practices by other agencies. And, perhaps, if you had the legal basis to do so, might be able to in some of those cases require our outside partners do certain things. But it wasn't in recognition of the realities of laws and statutes, et cetera.

MR. MOORE: Okay, were there any other comments? Kent.

MR. WARREN: I was wondering if we could tie number into some incentives that might promote these kinds of assessments by the private sector. You know, one of the needs of the private sector in the context of these developments is likely to be environmental permits. They won't always be necessary, but quite frequently, they are.

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And there are environmental justice issues that we all know can be very controversial arising in the context of environmental permits. And one way of encouraging developers to be sensitive to those issues is to perform these kinds of demographic assessments from the start, and to examine how the development can be shaped to have a positive impact, perhaps, on vulnerable populations. And if those kinds of analyses are done, then some credit ought to be given in the permitting process to having performed them.

MR. MOORE: Response?

MR. : It is a good idea.

MR. MOORE: Okay. So, now, any other comments with number five? And, David, always jump in there too. You know, I am trying to watch the light and the cards at the same time.

Okay, so now we are ready to go to one, huh? We will just ask the question, any comments, and we are going to move right through them.

Okay, any comments to recommendation one?

(No response)

MR. MOORE: Okay. Recommendation --

MR. LEE: So, let me just get it clear. So, if there are no comments, it means that you affirmatively support this recommendation as is.

MR. SAWYERS: That is my assumption.

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MR. MOORE: That was mine, and we should make no assumptions. So, that is where we are when we have no comment. We are assuming that accept the recommendation as is.

MR. PRASAD: I mean, I assume that you looked at all the options and IPAs seems to be the only option available for you to place them. That is why you are using that, otherwise, you could have added other mechanisms.

MR. WARREN: The reason that was used was because in certain settings -- well, one in the Brownfields showcase communities, they involved IPAs, not just from EPA, but also from other agencies as well. But in this particular set of place studies, East Palo Alto used very successfully in IPA.

So, it was not necessarily a completely exhausted set of considerations of what could be used, but that this particular mechanism of an IPA had been used very effectively.

MR. LEE: So, perhaps, you should say mechanisms such as IPAs, right?

MR. WARREN: I don’t think they would have a problem with that from their philosophical approach, and methodological approach.

MR. MOORE: Okay, any other comments on recommendation one? I am sorry, brother.

MR. WILSON: I just wanted to ask, could you talk

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for a minute about what the IPA did in East Palo Alto, and what specifically did they do?

MR. WARREN: Okay, without starting to make up stuff, I will give you some general perspectives.

MR. WILSON: Just what you know.

MR. WARREN: And if anybody else in the room can whisper in my ear, feel free to do so. The IPAs a lot of times, they served as not just a liaison for all the federal agencies, but in some ways a champion and a driving force.

In most settings around environmental justice and related things, things don't tend to move unless you have a champion. And we recognized that in the Brownfields program. So the IPAs, as a federal person put in those settings, they were able to navigate the federal waters and red tape. And that is a big part of what they were there to do.

They had relationships with HUD, or with Department of Commerce, and other folks. And in some cases, they became a city or county employee, so they also had an internal relationship with that city or county.

We have had a lot of success, for example, also in Los Angeles. Some people may know Lilly Lee, she was the IPA in East Palo Alto. Noemi Emeric, who was the IPA in Los Angeles. And so they were able to bring the knowledge of EPA, bring the knowledge of the full life-cycle of the Brownfields

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process, bring the knowledge of the federal structure, into that local government, county, municipal government setting, so that that knowledge could help the government work more effectively and efficiently in accessing the resources, and accessing the people, in moving the directions they needed to move.

Because most counties, depending on scale, or cities or counties, they don't necessarily have the knowledge base for all the complexities. And that is what the IPA was there to do, was sort of bring that knowledge in a human being. So they didn't have to call to San Francisco or Dallas every time.

MR. WILSON: Just, may I follow up? I guess what I am asking, it sounds to me what you describe is the IPA helps the county, or the local government. My question is, who helps -- but that is not one in the same, respectfully, as the environmental justice community. So, I am wondering is the idea that the IPA is going to actually aid the environmental justice community, is it going to help the local government figure out how to take advantage of the Brownfields program?

In other words, it occurs to me that people can make -- you know, if they want to weigh in on this process, can make good decisions for themselves, they just need to have some appreciation of the technical issues, as well as how the

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process works.

But are we, in effect, giving the local county government another employee they don't otherwise have. Or, is the IPA there to actually help the effected community group in East Palo Alto, or wherever you are?

MR. WARREN: And David will correct me when I deviate, but we are putting a federal employee in a city or county government to serve as one of their employees, essentially, for that time. Sometimes, we even put them in non-profit organizations as well. So, they are part of that organization.

But, as individuals, they bring a certain type of expertise to that setting. So they are not necessarily -- in fact, they are not at all specifically there to support the community individually, but they come with the knowledge of the kind of philosophy, and practice, and requirements that these various agencies have.

So, for example, they would come with the knowledge of aspects of the Executive Order, they would come with the knowledge of the ASTM Standard Guide for Sustainable Brownfields Redevelopment, which talks about the various roles community people can play throughout the life-cycle of a Brownfields redevelopment.

So, no, they have not specifically been sent there

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to work on EJ or community perspectives, but they have a knowledge base that re-enforces those aspects.

MR. WILSON: So they are not -- somebody used the word chant in before, and when I think of a chant in, I think of someone who fights on my behalf. And so they are not the champions for the environment justice community, but they may be the -- well, I don't understand. I don't completely understand how they are champion if they are not there for that affected community.

MR. BENJAMIN: Well, I would say you are correct. In the case of East Palo Alto, if you have a better sense of the demographics, and the sense of the sort of development history that is partially captured in here, but not comprehensively captured in here, it is an area that is surrounded by developing areas. It is an area that was predominantly African American. It is an area where it was being gobbled up, and the residents who were there -- there is a small government, small economic base.

So, with the resources and knowledge that came through that IPA, the community folks, in many cases, felt that their perspective was being captured better with closer involvement of the showcase community's structure and, consequently, the IPA.

But no, I would not try to represent that they are

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there for the community, specifically.

MR. LEE: Go ahead Andrew, I have a question.

MR. SAWYERS: I have a question, sort of a following up on that. Are IPAs restricted from working within community organizations?

MR. LLOYD: You mean in terms of what they have to work for in local government versus economic government?

MR. SAWYERS: Do they have to work for a local government?

MR. LLOYD: I don't know, we would have to check the rules. I don't know the specific rule on that.

MR. SAWYERS: Okay.

MR. COLLETTE: I might comment. I am passingly familiar with Pensacola, and I would comment that there is a difference between a champion and an applicant. And the person can work in the local government, Pensacola ---, and achieve results, and can champion special interest. It is not the hired advocate for the interest, but nevertheless, I have seen the reaction. They represent the community and the other interests, and the community has a voice.

MR. MOORE: Charles.

MR. LEE: Yes. I think the recommendation and the recognition of the value of IPAs, particularly, from the experience and the Brownfields showcase communities, and other

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places, you know, is really recognized here and it is important.

The question I had, and it could strengthen this recommendation, is I am not sure what the connection is here to the major issue that the committee wants to address, which is displacement and gentrification. You know, so I don't think that that is tied -- a link is not being spoken to in this recommendation, and I think it would be stronger if you guys made that link.

MR. SAWYERS: Charles, my quick comment to that would be just listen to what Kent is saying. If the IPA is sort of a person who translates information, essentially, provides some technical expertise to the community, then that community would be in a better position to understand some of the impacts, if you will, or potential economic benefits.

So, in terms of connection, I would simply say that if it reworded to read something in the context of, the IPA would be encouraged to provide technical expertise and support to the community to better understand the diversity of issues that they will be facing in this process, then I certainly would see a connection there.

But I mean, the one thing I would like for us not to probably get too deep into is to sort of dissect every single -- let me sort of go back a bit. When I got involved, and I

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started to work with the subcommittee, I immediately realized that they were all involved in other things.

And I think at the end of it, they decided that they were going to make some fairly general recommendations that could potentially have impacts across the board, if you will. But also, sort of going back to what Eileen said, they wanted us to sort of use this forum, NEJAC forum, to create a model, if you will, at least from sort of an overarching perspective of how to look at some of these things.

And if we started to sort of focus and get overly detailed with some of these recommendations, we may easily lose the gist of what they were trying to communicate. I certainly understand where you are coming from, but my concern is we do not dig too deep.

You know, I would suggest that we sort of look at it from creating a model, if you will. At least some perspective on how to look at these issues. They are not going away, these issues are very much at hand.

And if the recommendations are sort of pursued from that context, then okay, there needs to be additional pursuits, if you will, from different parties then. I think we may be better suited. So, just a recommendation on how to proceed.

So, in terms of recommendation one, I think the idea

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of, for example, IPAs. You know, there are certainly other ways or other opportunities to offer technical expertise, or advocates, if you will, or champions, if you will, to communities through both state and Federal Government support.

So that would be my recommendation there. I am not sure what the rest of the NEJAC Council feels about it, but I would be particularly cautious about sort of dissecting every single recommendation.

MR. MOORE: I think we would agree with that. So, let's stay on one with Ben, and then we are going to take a break right quick. And then, we are going to come back and run back through them.

MR. WILSON: I just wanted to say, I agree with, first of all, Andrew's general point. And, second, I also appreciate this modified language that you were suggesting. It just occurs to me that there is one thing when a person's role is to come in and serve in that same position that the local government might otherwise have an employee to perform; yet, it is another when someone is there who can provide me with this technical expertise, and help me understand the process. And then I, as an intelligent citizen, with my own leaders, can act and react as I wish, as I deem appropriate.

But I do think communities do need technical expertise, and they also need to understand the process. But,

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ultimately, it is that technical expertise that they may not have. And if this allows them to have it, then personally, I am all for it. So, I wanted to respectfully make certain I understood something before I said absolutely. And I understand it now, thank you. Better.

MR. MOORE: Yes. And very clear that we have to do that. Because when we call it, and say, do we agree at the end of the discussion -- and when we say we agree with no assumptions, that means we well signed on to it.

Okay, number one still. Any other comments before we -- questions, comments?

(No response)

MR. MOORE: Now, I see a hand, I don't know -- Charles, is this staff?

MR. LEE: This is John Ridgway, who was a member of the Unintended Impacts Workgroup. And he was the person who also -- he was the lead for gathering information on the East Palo Alto Place Study.

MR. LEE: And if you want to make a comment, John, feel free to do so.

MR. MOORE: Please, if you want to do that, just join us here for a second, John. Are you on one? Recommendation one?

MR. RIDGWAY: Yes.

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MR. MOORE: Thank you. Proceed.

MR. RIDGWAY: Thank you. For the record, I am John Ridgway with the Washington State Department of Ecology. I was the person assigned to the East Palo Alto Place Study. And just for clarification on this point, number one, this was a recommendation that was very strongly consistently expressed by some over a dozen people I talked to in East Palo Alto.

The role that this person played here was definitely not as an advocate, but definitely technical assistance. And it was also one of the more positive things that we could come up with. As far as an unintentional impact theme, this person helps avoid unintentional impacts. This person can bring clarity to the process for the community groups, for developers, for local government, county government.

And it was recommended because often local government, or even EPA, does not have such a dedicated resource available. So this is one way to enhance that process. And, again, it was not intended to be an advocate, but rather a resource that otherwise often is not there for these local community people.

It is also made clear in reviewing this particular recommendation that these kinds of resources from EPA need to be there for the entire process, from the beginning through the clean up. And in that regard, EPA is in a good position

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to provide an IPA for maybe a couple, three years while it goes on.

But in the case of Lilly Lee in East Palo Alto, everybody was very grateful that EPA had made that resource available; otherwise, it would not likely be there. And that is the background for that point. Thank you.

MR. MOORE: Thank you, John. Richard.

MR. LAZARUS: I wanted to just give a suggestion. If it turns out that it is unhelpful, then dismiss it. To try to address Charles' point before about the recommendation not linking up as much to the topic, and following up on what John said, would it be a friendly, rather than unfriendly amendment to have the recommendation, add at the very end the following additional statement? It says:

> "Through the use of IPAs" and then add this, "in order to help give voice, community concerns about adverse unintended impacts."

Would that -- I mean, to give voice doesn't mean to be an advocate. That can also mean to be sort of just someone who is making sure people are being heard themselves. In other words, in order to help give voice to community concerns about adverse unintended impacts. Adverse unintended impacts are the general common denominator of all of the recommendations, so it links that up.

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It makes it clear that one of the purposes of this -- it doesn't say it is the exclusive purpose -- is to play that role. That linkage role. If that unduly complicates things, then we can't do it. Because I know that you are trying to be more general, rather than more specific. But it might be a way to make it a little more focused in the way that Charles was suggesting, consistent with John's description of what was the original impetus for this recommendation.

MR. MOORE: Response?

MR. SAWYERS: I think it is fairly general enough. And, frankly, if everyone is in agreement, I say yes. We have to move on.

MR. LAZARUS: Right.

MR. SAWYERS: I agree with you Richard.

MR. PRASAD: Other choice is, actually, to add a paragraph at the very beginning of the recommendation that this is --

MR. SAWYERS: This is the same recommendation?

MR. PRASAD: No, for all the recommendations, to add a paragraph of what is the purpose these recommendations are. So, some of the mechanisms that could be considered, or that should be considered by EPA, and add that whatever these four or five bullets you have on the previous page to top, and

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include them that in order to ensure those things are met, EPA should pursue the following.

MR. MOORE: Response to one.

MR. PRASAD: That way it would cover all the recommendations in the spirit of the whole document.

MR. MOORE: Andrew.

MR. SAWYERS: Yes, that sounds fine Shankar. If you could get online, you could actually just put it together and send it to us. Certainly, that is fine.

MR. LAZARUS: Can I just add a quick --

MR. SAWYERS: I think this makes sense. If goes right after "Consolidated Recommendations," before number one, you would have something that says, "In order to," something like, "In order to address," or whatever. "We recommend the following." One, two, three, so.

MR. MOORE: Okay, it seems like we agree with that. Okay, so now any other comments with one, because we are going to take a break here, and when we come back, we are going to move into two, and we are going to stay with this consistency and move right through the process. So, are we done with one?

I should say too, that if there is any other subcommittee members that are here -- and thank you, John -- please, when we are discussing this, don't hesitate to come up. I just won't know all of you, so when I see the hands

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raised, I am not quite too sure sometimes who the people are.

So, subcommittee members, please stay actively involved. So we are ready for the break. I think it is a 15 minute break, Charles.

What time is it now, because we are going to start back 15 minutes from now so we can stay on the agenda.

MR. LEE: 3:30.

MR. MOORE: 3:30, okay.

(Whereupon, a brief recess was taken)

MR. MOORE: Are we about ready to reconvene? Okay. We need one more Council member they are tracking down now to have quorum.

(Pause)

Okay, I think we have quorum now. Let me just mention, as we begin to enter back into this discussion again, that I think it was very important for the Council and we have been on a lot of conference calls, we haven't actually face-to-face seen each other since I think January. But now that we went through all that beginning processing, we are going to have to tighten it up.

Okay, so we are going to go into number two. A suggestion would be then, recommendation number two, that as you are speaking to it, if you have questions, that you also present language. Language change that could add to

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strengthening the recommendation or not. So, are we prepared for recommendation number two? Questions, comments.

(No response)

MR. MOORE: Okay. Recommendation number three.

(No response)

MR. MOORE: Okay, Ben, I see you are shaking your head there. Your card is not up, but did you want to --

MR. WILSON: No.

MR. MOORE: I am trying to respond to heads, and cards, and facial expressions, body motions. Everything but fowl language. Recommendation number four. See, Connie is the one that picks on me all the time. Sometimes I do not look in that direction, so send me a message if you -- number four.

(No response)

MR. MOORE: Okay, now we have discussed recommendation number five. We have also have discussed recommendation number six. Okay, recommendation number seven.

MR. SAWYERS: Richard, the only thing I would ask is, specifically, for recommendation five and six, if there are any additional language change or additions, if you will, as Richard mentioned, please send it to myself and Charles. But if not, we are sort of assuming that the language here is okay.

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MR. PRASAD: I thought we had modified that. So, before that, we will work on that language and give it to you.

MR. SAWYERS: Okay. Fine, that is exactly what I am saying. If there is modified language, certainly, just send it to me.

MR. LEE: You know, by way of process, we want to have a final version of this out to you next week for a ballot. Because we want to have your recommendations transmitted to the Administrator as soon as possible after the meeting. So that is my insistence upon language. You know, specific language changes, if any, should be done as quickly as possible, if not here. Otherwise, we are going to end up having delays.

MR. SAWYERS: Yes. And I hope that we do not delay it. I am hoping that we can get whatever modified language that is being suggested incorporated pretty quickly.

MR. MOORE: Connie.

MS. TUCKER: I propose the following language for number five. Very simple change. That EPA requires an initial neighborhood geographic assessment as a part of the application. And then, at the bottom, a second, a similar assessment, as a requirement of receiving the Brownfields grant. Something to that effect.

MR. MOORE: Discussion.

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(No response)

MR. MOORE: Okay. I think then, we had no comments on seven. Let me just ask one more time, and then we will --

MR. LEE: Richard, just in terms of six, so what was the change that you wanted to have for number six?

MR. MOORE: Language.

MR. SAWYERS: I am not sure what the language will be, but I will come up with something. I mean, the idea here is -- and, again, I fully acknowledge some of the perspectives here about some of the limits, if you will, of local government land-use planning, and sort of external entities becoming involved.

And I would be willing to say something to the effect, state, tribal, and Federal Government agencies should be encouraged to participate as appropriate in local land-use planning process and government. Or, where appropriate. Something. Some language to that effect.

MR. MOORE: Eileen.

MS. GAUNA: I think that is a good suggestion. I would also suggest that you put in maybe a sentence where we talked about finding creative ways to encourage the use, or the consideration of environmental justice in local land-use decision-makings through EPA regulatory and grant-making authorities. And then just leave it broad like that.

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MR. SAWYERS: And Kent actually said something similar to that.

MS. GAUNA: That is better.

MR. MOORE: Okay, any other comments? Shankar.

MR. PRASAD: I understand --- in the very beginning, in order to improve community participation in the decision-making process, and reduce --- unintended impacts of Brownfields development, UIWG makes the following recommendations.

MR. BENJAMIN: Could you just not limit it to Brownfields development? Because the intention was also Superfund, and other areas, whether they are re-use and revitalization. And in OSWER's context, that includes underground storage tanks, federal facilities as well.

MR. PRASAD: So, Brownfields development could be modified into any phrase that you all want to use, but keep that team as the way of saying --

MR. BENJAMIN: What we kept using was, redevelopment and revitalization. And that kind of covers all the programs.

MR. PRASAD: And that way, it also helps you to bring in other issues that might not have specifically addressed in a specific recommendation.

MR. MOORE: Any other comments?

MR. LEE: Shankar, can you repeat that again?

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MR. PRASAD: Oh, I can give you that.

MR. LEE: Oh, yes, give it to me. Great.

MR. MOORE: Comments? Kent.

MR. BENJAMIN: Just one closing thought I wanted to share was that even though there has been some comments about the scope and the scale of the charge, et cetera, and the focus of the recommendations, like the Waste Transfer Station Report, and other things, like the Cumulative Impacts Report, people will take these and apply these into other context where they are relevant.

So, while you are speaking to us, this does have merits and utility in broader context usually.

MR. MOORE: Thank you for the clarification. Anything else?

(No response)

MR. MOORE: Okay, I think we have completed then the recommendation section. I think we will just open it up for -- now, we are not going to totally wordsmith everything in the report, but any language that people want to express, question, or concern about, or otherwise. Generally, in the report. Ben.

MS. SUBRA: And then after that, can we just do general? General, general.

MR. MOORE: Okay. Ben.

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MR. WILSON: There was language that Richard gave us earlier on number one. I just wanted to be certain that we got that. I thought that was good language.

MR. LEE: Yes, we got that.

MR. WILSON: And if they have it, we're fine.

MR. MOORE: Okay, now we are going into the general language in the report. Wilma, did you have something in particular?

MS. SUBRA: No. I want to do general, general, not general language.

MR. MOORE: Okay, there are two generals. And we are on the first general.

MS. SUBRA: I mean, I will do it now, but you are calling for something else.

MR. MOORE: Okay. No, I know. Okay, are we clear what we are trying to do right now? Okay, comments? Shankar.

MR. PRASAD: On page one, paragraph three, the third sentence is very disturbing. Is that a fact? "EPA funds have been used with impunity to continue private development profiteering at the expense of low-income residents."

MR. : Where are you, Shankar?

MR. MOORE: We are on page -- it is the Executive Summary. Executive Summary, third paragraph, third line. Discussion. Discussion.

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MR. SAWYERS: I am not sure there is any discussion needed here. We need to get rid of that. That is the bottom line.

MR. LAZARUS: You don't think it's strong enough?

(Laughter)

MR. SAWYERS: Too strong.

MR. PRASAD: And subsequently, on the next page --

MR. MOORE: Let me just stop there, Shankar. I think, Eileen, did you have a response to that?

MS. GAUNA: Yes, I am kind of wondering what is behind that sentence; although, it is stated a little bit -- you know, in the little polemic passion, but I am wondering if the idea behind that is maybe funds have been used unintentional.

When I read it, I said, well, are they thinking that too many funds are devoted to Brownfields projects, which I couldn't imagine that would be the thought. So I thought, well, maybe what they are trying to say, or the sentiment behind this statement -- which, I think, we should preserve -- is that, perhaps, maybe funds have been used unintentionally in a way that would promote displacement or gentrification.

And I am wondering if that is the sentiment. And if it is, I think it is appropriate that that sentiment be phrased, perhaps, a little bit more skillfully within the

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report.

MR. SAWYERS: I am not sure, Eileen, what -- Butch was there. I don't think you were the author of this.

MR. WARLAW: No, no. I know who the author was, but. I don't think we would have an objection to striking that.

MR. BENJAMIN: I would suggest that Eileen's interpretation was accurate of the intentions.

MR. WARLAW: Yes, I agree with that.

MR. SAWYERS: Okay, if anyone knows what the intention was, can you just provide me the language please, and I will incorporate it.

MR. MOORE: Okay, moving on. Shankar.

MR. PRASAD: (Microphone not turned on) Why don't they cover this --- mentioned in the next bullet. Equitable compensation for displaced property owners. --- that include property ownership --- again, ---. Just two very important points which rings out very clearly.

MS. : Shankar, we can't hear you.

MR. PRASAD: Oh, I am sorry.

MS. TUCKER: Now, what were you talking about? Refer us where you were.

MR. PRASAD: On page two. There are two bullets which are very important. One is it relates to the equitable

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compensation, and the other one relates to the stability and affordability to stay in the place. But when it comes to the question of subsequently in the recommendations phase, or in the articulation of those two points, I think there is a big gap. And we need to -- my recommendation is that somehow that needs to be a specific recommendation on that.

MR. MOORE: Discussion.

MR. PRASAD: I don't have any specific language yet, but if everybody agrees, maybe we could think of some.

MR. MOORE: Okay, discussion. Charles.

MR. LEE: My point is, I mean, this is the question I had raised before. And, I think the way you should address it is this. You know, as Andrew said, this is a product of a number of volunteers. And it does have short-comings in that regard. You know, in terms of the ability to address what are, essentially, questions that very few people have been able to figure out an effective approach to.

So, you know, I wouldn't worry about it. In terms of not having addressed it as fully as possible. I think that -- not to speak for David and Kent -- I think they hear you in terms of what you are trying to say.

So, I think, in looking and thinking about their response to this, I mean, I think there is an appreciation of the issues that you are trying to raise. So I wouldn't worry

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about it as much at this point.

Also, you know I don't think you want to hold up this report to try to do that kind of work.

MR. PRASAD: No, I was not planning to hold up. I was thinking whether it should be a part of one of the recommendations. Add one recommendation to that effect. That is what I was looking for, I was not planning to say that somebody should write that and we should take an extra round of a draft or anything. No.

MR. MOORE: Chip.

MR. COLLETTE: I really kind of agree with Charles. This is an Executive Summary, and it is a matter of just laying the groundwork, or overall picture. And I really don't think there needs to be too much changed when you get into the body of the report, and language. Intent becomes clear, so I kind of -- I lean with Charles. We just need to get the report out.

MR. LEE: If I may, you know, if you have a suggestion for language in terms of a recommendation, I think if you could formulate that to address these points that you have raised, I think you should put that forward. And the group could consider it. But I think short of that, I think you should let the process move forward.

MR. MOORE: Okay, do you have any other comments or

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suggestions? Connie.

MS. TUCKER: Just to note that, six -- number six on page -- roman numeral II, will have to be changed to fit the rewording of number six recommendation.

MR. MOORE: Okay. Any other comments, discussion?

MR. SAWYERS: Just quickly, going back to Connie's statement, if we could just actually resolve this right now. Connie, if that was reworded to read, "A lack of all the different parties, their participation in local land-use planning has resulted in adverse unintended impacts, such as displacement and gentrification," would that suffice?

MS. TUCKER: Well, I am just kind of opposed to putting -- because everywhere I have worked across the south, land-use planning is statutorily the responsibility of the local government. And I feel that for us to make any kind of recommendation that doesn't show our understanding of that, makes us look stupid. So I am not really for --

MR. SAWYERS: Yes, yes. I would sort of read it a little different to say that -- you know, it is almost a self-explanatory statement, if you will. If you are not involved, you will not have an opportunity to effect the final decision. And, frankly, you know, I have worked for a state government where we see quite often lack of involvement has, frankly, resulted in several unintended impacts.

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MS. TUCKER: Well, apparently, your state and Florida are about the only two that I know that are doing that. I would recommend that, perhaps, a fact sheet that could be widely distributed, or brought to local planning boards about environmental justice considerations, and land-use planning. It may be okay.

MR. SAWYERS: Can I ask you a question. Do you disagree with the statement?

MS. TUCKER: Well, you know, in some instances, the state is as big a problem as -- my life experience -- let me back up -- is that local governments make plans for land-use that are not necessarily just decisions. Okay, they target certain unwanted activities in poor and communities of color. So that is a historical fact. But also, states have encouraged that. So I am not sure even with state involvement, in certain regions of the country, that would be effective.

I don’t think it is our job to necessarily dictate that sort of thing, but rather to offer information about environmental justice considerations that can be made available to land-use planning bodies. That would be appropriate.

MR. SAWYERS: No, no, Connie. I fully agree with the point you are making. Absolutely, there are no two ways

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about who manages local land-use. But in this context on the Executive Summary, I think what the gentlemen are saying who wrote this, this was just an observation. They saw that because state agencies, tribal agencies, federal agencies, local agencies, or local community folks, were not involved in the land-use process.

You know, there were adverse impacts because of that lack of involvement. So they are not saying that they should be involved here, they are just saying that because they were not involved, they have seen some of these unintentional effects.

MS. TUCKER: Yes, but it then carries over into -- that is why I am saying, the two have to compliment each other. It goes into a specific recommendation on six.

MR. SAWYERS: And I do. And I think this statement will be the catalyst for number six. And, certainly, number six should change, based on what you are saying. But I am not sure this six here, this is just sort of a casual -- well, not casual if you will, but it is just an observation that was made based on interviews with the stakeholders.

So, if it is okay, I would probably reword this to say, the lack of involvement has resulted in. This is just an observation, it is not a recommendation here.

MS. TUCKER: Yes. I am not sure if that observation

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is an accurate observation, but --

MR. COLLETTE: Andrew, I agree with -- Chip here -- I agree with your rephrasing, because what happened in Florida is lack of involvement resulted in our adopting the Comprehensive Land-Use Planning Act, and empowering the Florida Department of Comprehensive Affairs. And I think, fine, the rest of the country isn't there, I come from a progressive state in that regard because our land is short and valuable.

But, perhaps, this provides a basis that other will follow. And I agree with your -- it has resulted, and there may be -- you know, you need to make that observation, is my opinion.

MR. MOORE: All right. Kent

MR. BENJAMIN: I just want to suggest also that on page 17 under summary recommendation, as well as on page, lower-case iii, the summary recommendations, they attempt to address some of the issues raised in terms of the practicalities of what EPA can do, and referencing some of the intentions behind the other recommendations.

MR. MOORE: Okay. Now, did we get that? I am going to move on until we have got language or something there in terms of that discussion that took place there. Andrew.

MR. SAWYERS: I thin we are fine. I think Connie

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agreed, right Connie?

MS. TUCKER: I would be very comfortable if it said, the lack of citizen involvement in land-use planning. Because I can tell you, at least in my life experiences, even tribal governments are responsible for land-use planning that is polluting the air, water, and land. So I would say, if it were citizens, yes.

MR. MOORE: Let me cautiousness that I would use in terms of the word citizen, is that we are just in the process of a major immigration debate, and if we could say resident, or something, I think that would identify.

MS. TUCKER: I would agree, because often times, I don't feel much of a citizen myself.

MR. COLLETTE: May I make one further comment on this, just because of our peculiar experience in Florida. State government involvement is important, and encouraged in tribal government, and federal environmental agency's involvement. And once it occurs, you get some positive things that occur.

I like how it is phrased, or how Andrew suggested rephrasing it, it is an observation, and it is a point for encourage.

MR. MOORE: Okay.

MR. SAWYERS: In the spirit of compromise, Connie,

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if we further rephrase it to read, the lack of residential, state, tribal, and federal government participation, does that suffice? You know, I always try to compromise with Connie here, because she sets me correct. But does that work, Connie, if we include residential in this?

MS. TUCKER: Well, it certainly helps. But I wouldn't agree with the state and federal government. I will follow the consensus of the group. You all reword it, and if everybody agrees, I will agree too.

MR. SAWYERS: Thank you very much, Connie. Appreciate it.

MR. MOORE: John.

MR. RIDGWAY: Hi, again. John Ridgway here. I was involved with the drafting of this language, and maybe for clarification here, and to the question that came up earlier, what does this mean. Kent's point first, on pages 16 and 17, we definitely tried to show respect that EPA or states are not driving local land-use decisions, and that is not the intention, and never was.

We had a lot of debate on this point. Examples could be, sharing data of contaminated sites when locals are making decisions about land-use planning or zoning, to the effect that they have those tools available for them. When in the past, they haven't necessarily. Whether it is EPA or the

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states to provide locals more resources to make the most informed decisions was the point here.

That is what we were trying to get at, not to over rule, or disrespect local government zoning as the lead agencies.

MR. MOORE: Thank you, John. Okay, are we prepared to move forward?

(No response)

MR. MOORE: Okay, another comments? Eileen.

MS. GAUNA: Oh, just a quick suggestion, because I think Connie's point is well taken. That sometimes state and local government participation in local land-use decisions can be negative. And so I would just add positive involvement, or some sort of modifier like that because just to get at that idea a little bit better.

MS. TUCKER: Was that Butch -- John. John, I am sorry, John. If the observation and the recommendation reflected the comments that John made, this would then be a powerful recommendation. That often observations at local planning are done without all of the data, and blah, blah, blah. You know, I could appreciate that.

MR. RIDGWAY: I would be glad to work with Andrew and Kent to reflect that, and the draft will go to you.

MR. MOORE: As we move on now, we have got a sense

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of what the issue is, so I think we are prepared. Thank you, John, again. We are prepared to move forward, so any other general before we go to general, general? Is there any other general comments?

(No response)

MR. MOORE: Okay, hearing none at this point, Wilma.

MS. SUBRA: As usual, what comes out of the document is the Executive Summary, and that is the part that gets spread around. I think in this case, it is also going to be the individual communities you went to in that portion of this document, and that write-up.

And I think that write-up has been very important already, even though this document is still in draft form. Because those communities who have seen the copies of their part have distributed to other communities who are facing similar types of things. And I think as you work through those communities, you also help those communities focus, whether then taking three days to tell you what their issues are, you have brought them down into a few paragraphs.

So, you have really spotlighted those issues, on behalf of those communities. And I think you have to be aware that it is going to have a long-lasting effect.

One of the things sort of focused on Pensacola, but sort of a bigger issue right now is appraisals. And there are

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a lot of communities that are trying to get relocation. And when they go in and do an appraisal, it is appraised based on it being on top of contaminated soil, on top of contaminated ground water, or in areas where there is contaminated air.

And a lot of times when industrial facilities are participating in the process, they try and say, well, we are going to do the appraisal like it is clean. Well, how are the appraisers going to go in and do it like it is clean, versus what is really there. And that gets to be a real big debate. Does an appraiser do two appraisals, one like it would be anywhere else in the county, and a second appraisal because it is on top of, or in air pollution?

And so when the community member says, will you appraise my house, but I can't go anywhere else in the county and buy a comparable house because my appraisal is so low because I am living on top of or in. So, that gets to be an issue.

And then, specifically, on Pensacola, and because I have worked there so long, you are talking about the relocation of north and south of the waste site itself. Well, we were able to get additional sampling across Palafox in the Clarinda Triangle area.

And yes, there was contamination above the clean-up levels. And the interesting thing is that the community asked

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-- this is all occurring in 2000, 2001, 2003, to be relocated. And then the Agency finally started sending the message, Hurricane Ivan had come by and destroyed or damaged all housing in the Greater Pensacola area.

So, suddenly you had people who looked like they were going to get a relocation, that there was nothing to relocate in. Because people who had moved out of their houses that were destroyed or damaged, were taking up all the things. So there wasn't any affordable housing. And as you know, real estate always goes, location, location, location.

I think in this case, it was timing. Because as you know, two years later, we still don't have the money appropriated to do the relocation, but EPA has now got it in the record of decision. So sooner or later, it is going to happen, but the money is not there. And what happened is, Hurricanes Katrina and Rita hit the Gulf Coast after Ivan. Ivan was in 2004, Katrina and Rita were 2005.

And now people in the Pensacola area are going like, should I live here. So, over the last six months or so, where there was nothing for sale, nothing for rent, over the last six months ago, people are leaving, and all of a sudden there is a lot of affordable and appropriate housing.

So, if and when we ever get the money appropriated from EPA to do the relocation, because it is fund lead, there

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are going to be plenty of houses. But there wasn't at the first time EPA announced we are going to do the relocation.

So, timing is critical in these communities. When you say you are going to do a relocation, and when you actually come up with the money to do the relocation, what is the real estate market at that time.

But again, other communities are really looking at this data and looking forward to being able to do comparable things. So never think that that piece of the report doesn't get looked at. Because it gets looked at as much as the Executive Summary.

MR. MOORE: Any other comments? Connie.

MS. TUCKER: Wilma, I am confused. Last time I checked, everybody had been relocated. Maybe that is -- I am not finished -- and I have worked very closely with Pensacola for a number of years. Once we won the relocation, I went on. But Michael Lythcott, who helped prepare this report was, in fact, contracted by KATE, the local organization to do the relocation assessment there.

And just in my conversations with him, I thought the bigger problem in Pensacola was, in fact, the unethical realtors who drove the price of existing housing up, and that was one.

Two -- and I think it is in the report -- that they

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did not require a home inspection. So, some people ended up in houses where there was major system that had problems. Those sorts of things. So I am just a little confused about -- they didn't get relocated? Last time I checked, they were.

MS. SUBRA: Can I respond?

MS. TUCKER: Yes. Well, I was hoping that someone from the EPA would.

MR. BENJAMIN: Well, I can't answer on the relocation. I don't have the facts on the relocation. I was under the impression that Connie was.

MS. TUCKER: Yes, he is the man that was in charge is right over there at the time. Can we ask him?

MR. BENJAMIN: Well, he is now in the private sector, so he can't speak for EPA.

MS. TUCKER: Yes, but he was serving during that time.

MS. SUBRA: Okay, first of all, based on what was in the report, those issues were the issues. What I was doing was from that point forward. And Clarinda Lane is across Palafox and that is the new area we are getting relocated. I wasn't negating all the issues in the report.

Clearly, the issues in the report, are the issues that are faced by Pensacola and a lot of other communities. I

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wasn't rehashing that part, because Richard wanted me to be brief and tight. This is a new area across Palafox that we are dealing with the relocation.

MS. TUCKER: Okay. So that is a new area that has been identified that will fall under the relocation. Same relocation.

MS. SUBRA: Separate relocation.

MS. TUCKER: Oh, okay.

MS. SUBRA: And a separate ROD, record of decision.

MS. TUCKER: Okay.

MR. MOORE: All right. It seems like we got that cleared up, thank you all. Any other comments, in terms of the report?

(No response)

MR. MOORE: Okay. Almost a bit of a miracle, but we have completed the agenda before hand, Charles. And did you want to make, or Barry, did you want to make any comments before we convene this one? Kent. Charles, before --

MR. LEE: No, go ahead.

MR. MOORE: Kent.

MR. BENJAMIN: I just wanted to thank the members of the Waste and Facilities Siting Subcommittee, and the Unintended Impacts Working Group who worked on this. And some of them are here at their own time and expense, and they put

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in quite a bit of effort. And we in OSWER, and the EPA, truly appreciated their effort. So I just wanted to say that for the record.

MR. MOORE: And just to add to that, Andrew.

MR. SAWYERS: No, I just want to -- certainly, what Kent is saying. They worked extremely hard, but also not just thank the subcommittee members, but thank the NEJAC members for this discussion today.

I, actually, had a lot of fun with the discussion, and I think after reading the report a couple times, I must say -- and coming from Wilma, that there are other people using this report, that was the intention. That people would take a look at these case studies, the way they were done, how they were informed, and continue to use them in other places.

And Kent sort of alluded to that, that people will use them within context that fit whatever they are trying to do. So, if that is already taking place, you know, kudos to the gentlemen who worked on this report.

And I hope that it will continue to inform future decisions. But thanks to them, thanks to fellow council members for sort of having a very progressive and really interesting debate in moving this report ahead.

MR. MOORE: Thank you. And I would like to, Charles, before we move on, I just wanted to thank David and

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the staff. The staff there at your office. I mean, I think again, although when we started this discussion off, we know that the report has been delayed for a period of time. I would like to seriously thank you with the leadership of the Brownfields program, and the staff that continued to work on this throughout the years.

MR. LLOYD: Thank you. And thank you again for having me. And if I could just make sure, if you don't already know, Myra Blakely, who is the Acting Deputy in the Office, and Joe Bruss, who works on these issues and also the tribal issues in the office, and job training. I would like to just introduce them to you, because they do a lot of the heavy lifting on these issues in the office. And thank you again.

MR. MOORE: Thank you.

MR. LEE: Thanks, Richard. Yes, I want to thank all of the people that worked on this report too, and the workgroup, the subcommittee, members of the Brownfields office, and Kent Benjamin, and others.

Not to repeat what everybody said, but this does raise -- this is a very significant report in the sense that it raises some very significant issues.

And, certainly, I think that the fact that there is a real desire to want to dig into these issues on the part of

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David, and Kent, and others, EPA, I think --- well for just having some -- being productive in terms of the kind of outcomes that will come out of this.

I do want to make sure we are clear about the process as we move forward. Essentially, the committee has adopted this report in principle, is that correct?

MR. MOORE: That is correct.

MR. LEE: Basically, Andrew, you have a number of language changes that you are going to make, and when would you be able to get them over to us?

MR. SAWYERS: As soon as they are submitted to me. No, Shankar -- I have to get Shankar's language. I think you have some, I pretty much have written down everything else.

So, as soon as I get whatever language you have outstanding, or anyone else, and I would plan to send this to you by, probably this Friday, no later than Monday of this next week.

MR. LEE: Okay, great. I mean, do you have any kind of language, changes, suggestions, please give it to Andrew by end of today or tomorrow. Is that possible?

MR. SAWYERS: Yes.

MS. BRIGGUM: Could you send it to us electronically. For some reason, I could not find my copy on that. And then that would allow us to do the quick changes

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for you.

MR. LEE: Okay. Would you be able to do that, Victoria?

MS. ROBINSON: Yes, I can.

MS. BRIGGUM: Just send it to the group, that would be great.

MS. ROBINSON: (Microphone not turned on) Yes, I can have someone do that online, --- a Word document. Okay, it is not --- pdf document.

MR. LEE: The other thing that I wanted to just make sure the committee is okay with, is the fact that I think that this report would be strengthened if there were some editorial changes.

And not in terms of content, but just in terms of just there are a lot of run-on sentences in here. So, we will be glad to do that if that is okay with the committee.

And combined with what Andrew is going to get back to us, we should have this ready by next week in terms of forwarding to the Council for a final ballot. Is that okay? Great.

So, if we are okay with that, we can move on. Which means that we can actually adjourn early for today. There is a 7:00 public comment period, and this should not be too long because we have at this point, I think four people signed up

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for public comment.

MR. MOORE: Okay, thank you all, and anyone who hasn't signed up for public comment, please do so. We will reconvene at 7:00.

(Whereupon, the meeting was adjourned to reconvene at 7:00 p.m.)

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